

# Town of Lunenburg Board of Selectmen



## Policies and Procedures

ADOPTED ON NOVEMBER 12, 2013  
REVISED OCTOBER 6, 2015  
REVISED JULY 18, 2017

## TABLE OF CONTENTS

### ARTICLE I. PROCEDURAL POLICIES PURPOSE

SECTION 1.01 PURPOSE.....	1
SECTION 1.02 ESTABLISHMENT OF POLICIES AND PROCEDURES.....	1
SECTION 1.03 AUTHORITY.....	1
SECTION 1.04 AUTHORITY OF THE TOWN MANAGER.....	1
SECTION 1.05 DUTIES AND RESPONSIBILITIES –STANDARDS OF CONDUCT.....	2
SECTION 1.06 ORGANIZATION.....	2
SECTION 1.07 RESPONSIBILITIES OF OFFICERS.....	2
SECTION 1.08 MEETING PROCEDURES.....	3
SECTION 1.09 AGENDA.....	3
SECTION 1.10 EXECUTIVE SESSION.....	4
SECTION 1.11 PUBLIC COMMENT.....	4
SECTION 1.12 TOWN MEETING.....	4

### ARTICLE II. OPERATIONAL POLICIES

SECTION 2.01 ACCESS TO TOWN COUNSEL.....	5
SECTION 2.02 REMOTE PARTICIPATION.....	5
SECTION 2.03 COMPUTER USE.....	8
SECTION 2.04 EMAIL BY BOARDS/COMMITTEES.....	10
SECTION 2.05 SMOKING.....	10
SECTION 2.06 VEHICLE USE POLICY.....	10
SECTION 2.07 APPOINTMENTS.....	19

### ARTICLE III. FINANCIAL

SECTION 3.01 BORROWING.....	22
SECTION 3.02 CAPITAL BUDGET.....	23
SECTION 3.03 FREE CASH.....	25
SECTION 3.04 STABILIZATION.....	26
SECTION 3.05 WARRANTS.....	27
SECTION 3.06 INVESTMENT POLICY.....	27

### ARTICLE IV. REGULATORY

SECTION 4.01 LIQUOR LICENSE.....	35
SECTION 4.02 BRING YOUR OWN BOTTLE PERMIT.....	47
SECTION 4.03 ONE DAY LIQUOR LICENSE.....	50
SECTION 4.04 EARTH REMOVAL PERMITS.....	51
SECTION 4.05 CIRCUS PERMIT.....	51
SECTION 4.06 PEDDLER LICENSE.....	51
SECTION 4.07 WEEKDAY ENTERTAINMENT LICENSE.....	51
SECTION 4.08 ENTERTAINMENT ON A SUNDAY LICENSE	
SECTION 4.09 AUCTIONEER LICENSE.....	52
SECTION 4.10 AUTOMATIC AMUSEMENT LICENSE.....	52
SECTION 4.10 (a) JUKEBOX LICENSE.....	53
SECTION 4.11 BASE LICENSE.....	53
SECTION 4.12 BAZAARS AND RAFFLES.....	53

SECTION 4.13 BILLIARDS LICENSE.....	53
SECTION 4.14 CLASS 1 AND 2 LICENSES.....	53
SECTION 4.15 CLASS 3 LICENSE.....	54
SECTION 4.16 COMMON VICTUALLER LICENSE.....	54
SECTION 4.17 TAXICAB LICENSE.....	54
SECTION 4.18 LIMOUSINE LICENSE.....	56
SECTION 4.19 GASOLINE STORAGE-STORAGE OF INFLAMMABLES.....	57

## **ARTICLE V. USE OF PUBLIC BUILDINGS/PUBLIC PROPERTY**

SECTION 5.01 POLE LOCATION REQUESTS.....	57
SECTION 5.02 ROAD ACCEPTANCE.....	57
SECTION 5.03 USE OF PUBLIC WAYS.....	58
SECTION 5.04 TOLL BOOTH/BOOT DRIVES.....	58

## **ARTICLE VI. PUBLIC RELATIONS**

SECTION 6.01 BOSTON POST CANE.....	59
------------------------------------	----

## **ARTICLE VII. PERSONNEL**

SECTION 7.01 FAMILY & MEDICAL LEAVE.....	59
SECTION 7.02 SEXUAL HARASSMENT.....	62
SECTION 7.03 PROTECTED CLASS HARASSMENT .....	66
SECTION 7.04 ALCOHOL & DRUG TESTING FOR EMPLOYEES WITH CDL .....	70
SECTION 7.05 COMPENSATORY TIME .....	75
SECTION 7.06 EQUAL OPPORTUNITY .....	75
SECTION 7.07 SICK LEAVE .....	75
SECTION 7.08 USE OF CONTRACTORS.....	75
SECTION 7.09 TOWN COMMUNICATIONS .....	75
SECTION 7.10 SOCIAL MEDIA .....	76
SECTION 7.11 CORI POLICY .....	78
SECTION 7.12 PARENTAL LEAVE.....	80
SECTION 7.13 DOMESTIC VIOLENCE LEAVE.....	81
SECTION 7.14 WORKPLACE VIOLENCE.....	84
SECTION 7.15 DRUG FREE WORKPLACE.....	86
SECTION 7.16 ADA POLICY.....	86
SECTION 7.17 CONFLICT OF INTEREST.....	87
SECTION 7.18 STANDARDS OF CONDUCT.....	88



# **TOWN OF LUNENBURG**

## **Board of Selectmen**

### **Policies and Procedures**

#### **I. ARTICLE I. Procedural Policies Purpose**

##### **Section 1.01 Purpose**

These policies and procedures shall address those topics that cannot be dealt with elsewhere. Its content should be considered supplemental and subordinate to language embodied in state statute, Town Charter and Town By-law.

Subjects which are more appropriately addressed in statute, by-law or regulation shall not be included in this format, except in reference. The individual policies and procedures embodied herein are severable. If any of them are held to be unconstitutional or invalid, the remaining policies and procedures shall not be affected thereby.

##### **Section 1.02 Establishment of Policies and Procedures**

Draft policies and procedures will be placed on the agenda for any regularly scheduled meeting of the Board. Drafts will be in writing, and may be introduced only by a member of the Board or the Town Manager. Upon receipt of a draft, the Board may choose to discuss the policy immediately or schedule the discussion for a future meeting. The Board may schedule any hearings or meetings it deems necessary for discussion. The Board may distribute a draft for comment to appropriate officials as it deems necessary.

The Board will not vote on a policy at the same meeting that it is first introduced. This rule may be waived if the majority of the Board votes that prompt action is necessary. A unanimous vote of a three member board or four votes of a five member board is necessary for adoption. Policies and Procedures will be distributed to all new board members.

The Town Manager shall be responsible for the maintenance of all policies and procedures, for updating the policy manual with new and amended policies, and for ensuring that copies of the Board's policies and procedures are distributed to newly elected Board members. Copies of the policy manual shall be made available to the public at the Selectmen's Office and at the Office of the Town Clerk.

##### **Section 1.03 Authority**

The Board of Selectmen is an elected board and derives its authority and responsibilities from the statutes of the Commonwealth of Massachusetts, and from the Town Charter and bylaws of the Town of Lunenburg.

##### **Section 1.04 Authority of the Town Manager**

According to the Charter, the Board is responsible for appointing a Town Manager who functions as the Town's Chief Administrative Officer. The primary responsibilities of the Town Manager are defined in the Charter, Article 4 Section 4-2, & Section 4-3.

The Town Manager must maintain a close working relationship with all members of the Board. He/she shall brief the Board of all important issues

## **Section 1.05 Duties & Responsibilities - Standards of Conduct**

A member of the Board, in relation to his/her responsibility to the community, shall recognize that his/her primary role is to set policy, with responsibility for administration delegated to the Town Manager;

- recognize that he/she is a member of a team, and shall abide by all Board decisions once they are made;
- be well informed concerning the duties of a Board member on both state and local levels;
- remember that he/she represents the entire community at all times;
- accept the Office of the Selectmen as a means of unselfish public service, not to benefit personally or professionally from his/her Board activities;
- in all appointments, avoid political patronage by judging all candidates on merit, experience and qualifications only; and
- abide by the provisions established by the Commonwealth in M.G.L.,c.28A as they apply to municipal officials.

As a member of the Board, a Selectman shall:

- endeavor to establish sound, clearly defined policies which will direct and support the administration for the benefit of the people of the Town;
- recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administrations;
- give the Town Manager full responsibility for discharging his/her decisions and solutions;
- not make statements or promises of how he/she will vote on matters that will come before the Board until he/she has had an opportunity to hear the pros and cons of the issue at a Board meeting;
- make decisions only after all facts on a question have been presented or discussed;
- uphold the intent of executive session and respect the privileged communication that exists therein and;
- treat with respect the rights of all members of the Board despite differences of opinion.

## **Section 1.06 Organization**

The Chairman shall be elected annually at the first regular meeting following the Annual Town Election. The Board may remove the Chairman at any time. A majority vote shall constitute an election. The immediate past Chairman shall preside as Chairman pro tem until the Chairman is elected. If there is no immediate past chairman, the senior member in terms of current service shall serve as Chairman pro tem. In the case of members with the same amount of seniority, the member receiving more votes in the most recent election shall serve. If a vacancy occurs in the office of Chairman, the Board shall elect a successor. The Board shall further appoint a Vice-Chairman and Clerk under the same provisions for the Chairman.

## **Section 1.07 Responsibilities of Officers**

The Chairman shall:

- preside at all meetings of the Board at which he/she is present. In doing so, he/she shall maintain order in the meeting room, recognize speakers, call for votes, and preside over the discussion of agenda items;
- sign official documents that require the signature of the Chairman, following a vote of the Board;
- call special meetings of the Board in accordance with the Open Meeting Law;
- prepare meeting agendas with the Town Manager;
- represent the Board at meetings, conferences, and other gatherings unless otherwise determined by the Board or delegated by the Chairman;
- serve as spokesman of the Board at Town Meetings and present the Board's position unless otherwise determined by the Board or delegated by the Chairman;
- make liaison assignments, as appropriate, and assign overview responsibilities for projects and tasks to Board members unless otherwise determined by the Board, and;

- arrange for the orientation of new members, unless otherwise noted
- ensure that the Board maintains a legal and open level of communication.

The Chairman shall have the same rights as other members to offer and second motions and resolutions, to discuss questions, and to vote thereon.

The Vice Chairman shall act in the place of the Chairman during his/her absence at Board meetings. Should the Chairman leave office, the Vice Chairman shall assume the duties of the Chairman until the Board elects a new Chairman.

The Clerk shall sign all official documents requiring the signature of the Clerk, with the authorization of the Board and shall be responsible for recording minutes of any portion of meetings held in executive session for which the Town Manager is not present.

## **Section 1.08 Meeting Procedures**

The Board of Selectmen functions only when acting as a Board in a legally constituted session. The Board functions as a body in all policy decisions and all other matters as required by law or determined by a vote of the Board in formal session. Selectmen are elected officials with responsibility to represent all segments of the community and there should be no restraint in the proper and reasonable exercise of this responsibility. The individual members of the Board shall respect their responsibility to other members of the Board so that the discharge of these duties may be accomplished in an expeditious and productive manner. Extended orations or arbitrary declarations are not conducive to intelligent and factual solutions to problems before the Board.

Meetings are to be conducted in accordance with generally accepted rules of parliamentary procedure and the Open Meeting Law. All meetings of the Board shall be held in places accessible to the handicapped.

A quorum shall consist of three members of the Board. As a practical courtesy, action on critical or controversial matters, the adoption of policy or appointments shall be taken whenever practicable with the full Board in attendance. Actions and decisions shall be by motion, second, and vote.

Split votes will be identified by name in meeting minutes. The Chair will announce the outcome of each vote taken.

Regular meetings of the Board shall be held in the Joseph F. Bilotta Meeting Room as scheduled by the Board. Typically meetings shall be televised on the local cable access channel. Meetings falling on a legal holiday are usually canceled or rescheduled at the discretion of the Board.

Meetings of the Board may be convened at the direction of the Chair whenever circumstances require. These will normally be convened to address unfinished business, respond to emergency situations, or to conduct informal working sessions. The Board will post notice and record minutes of all meetings are required by MGL c.39.

## **Section 1.09 Agenda**

The Town Manager bears primary responsibility for coordinating and planning the agenda for regular meetings of the Board. The Town Manager, in consultation with the Chair, shall prepare the agenda, and schedule a realistic time period for each appointment, interview, conference, or other scheduled item of business. All items to be considered must be submitted to the Selectmen's office by the close of business the Tuesday prior to the scheduled meeting date. Items of an emergency nature that develop after the close of the agenda may be added to the agenda by the Chair. The agenda for a regularly scheduled Board meeting shall be prepared by the end of the work day on Thursday the week prior.

Members of the Board, Staff, Town Manager or others who prepare background materials for a meeting should have such materials available by the close of business the week prior to the scheduled meeting date. If background

information is insufficient or complex, any member should feel free to ask for additional time for careful study of an issue or a motion.

The agenda shall be available to the public and the press at the Selectmen's Office and shall be posted on the bulletin board in accordance with Massachusetts General Law and posted on the Town's website.

Copies of the minutes of previous meetings and all important correspondence, reports and other pertinent background materials shall be held in the Selectmen's office for inspection by interested parties and the press. With private/commercial property specific requests, the applicant will be required to notify direct abutters directly adjacent to the property, including owners of land directly opposite within 300 feet including abutters of abutters, at least 30 days before of the date and time of the meeting at which the request will be discussed and/or acted upon by the Board.

For all other matters, the Town Manager will make all reasonable attempts to notify all known persons who will be directly affected by proposed Board discussion or action will be notified of the date and time of the meeting at which the matter will be discussed or acted upon by the Board.

### **Section 1.10 Executive Session**

Where practical, executive session shall be scheduled at the end of the open meeting of the Board. Only items clearly allowed under the Open Meeting Law shall be included in executive session. Prior to calling for a motion to adjourn into executive session, the Chairman shall state the reasons for which an executive session is sought. The Chairman shall also state whether or not the Board will reconvene in open session. A majority of the members present and voting must vote to enter executive session by roll call vote.

### **Section 1.11 Public Comment**

In recognizing that it both represents and is accountable to the residents of the Town, it is the policy of the Board to make every effort to strengthen communications with citizens. The Board will act to increase citizen participation, encourage citizen input into government decision, and to keep residents informed of all actions contemplated or taken by the Board which will affect them. To this end, the Board will take the following steps:

- Public comment shall be limited to fifteen minutes with no more than three minutes allowed per speaker except at the discretion of the Chair.
- In addition to public comment, a resident or group of residents may request a meeting with the Board by contacting the Selectmen's office, stating precisely the reason for the appearance and the Board action desired and by naming a spokesman for the group. As circumstances permit, such a meeting will be incorporated into the agenda of the next regularly scheduled Board meeting. Participants shall be allowed to make a reasonable presentation through the spokesman and to express opinions, and to ask for pertinent information. Residents making such presentations are encouraged to prepare written materials for the Board's review;
- If the Board is considering matters of citizens' concern at a regular meeting, the public will be allowed to ask questions or make statements relative to the matter under consideration at the discretion of the Chairman;
- The Town Manager and Board will ensure that all citizen questions and complaints are answered promptly by the appropriate body. Matters requiring the attention of the full Board shall be included in the agenda of a future regular Board meeting.

### **Section 1.12 Town Meeting**

The Annual Town Meeting is held the first Saturday in May (per Town bylaw). The deadline for filing articles is 42 days before the date of the meeting. Town Meeting shall be convened and conducted in accordance with Article I of the General Bylaws and Section 2.4-2.9 of the Charter.



## **II. Article II. Operational Policies**

### **Section 2.01 Access to Town Counsel**

All requests for the use of Town Counsel must be submitted in writing or verbally to the Town Manager. The Town Manager will henceforth act as the contact point between Town Counsel and the governmental body of the Town unless an alternate contact person is designated by the Town Manager.

The information furnished to the Town Manager must include:

- The request or the question
- What date a response is needed by
- What type of response (written/verbal) is needed
- Any additional information you may feel is necessary

The Town Manager will log in this request for Town Counsel's services and will respond as necessary for each request for services.

Emergency situations should they arise, will be handled by contacting Town Counsel directly. Then, immediately notifying the Town Manager as to the subject matter of the request as well as an explanation as to why it was determined to be an emergency situation.

When a governmental body becomes aware that litigation is probable or imminent the Town Manager and the Board of Selectmen shall be notified immediately. A meeting shall then be scheduled by the Town Manager with all pertinent parties in attendance, including but not limited to; the governmental body involved, the Board of Selectmen, Town Manager and Town Counsel, to review strategy, risk assessment and cost limitations.

### **Section 2.02 Remote Participation**

*Adopted by: Board of Selectmen May 22, 2013*

#### **Purpose Statement**

The Office of the Attorney General amended the Open Meeting Law regulations at 940 CMR 29.00 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While members of Town Boards should make every effort to attend meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain specific circumstances prevent them from being physically present.

The intent of this policy is to establish clear guidelines on the practice of remote participation by Town Boards under the Open Meeting Law, M.G.L. c.30A, §§18 – 25.

#### **Enabling Authority-940 CMR29.10(8)**

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

#### **Applicability**

The Board of Selectmen on May 22, 2012, voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town. The Board of Selectmen may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, committees, commissions, sub-committees, task forces and working groups (“Town Boards”) regardless of whether such Town Boards are appointed or elected. Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

#### **Minimum Requirements for Remote Participation**

No member of a Town Board shall participate in a meeting remotely unless the following requirements are met:

- a. Members of the Town Board who participate remotely and all persons present at the meeting locations shall be clearly audible to each other and, if the meeting is televised, the member participating remotely shall be audible to the television viewing audience;
- b. A quorum of the Town Board, including the chair or the person authorized to chair the meeting shall be physically present at the meeting location;
- c. To the greatest extent practical, and to ensure informed discussion and decision-making, members of the Town Board who participate remotely should have access to the materials being used at the meeting location.

#### **Permissible Reasons for Remote Participation**

It is the expressed intent of the Board of Selectmen that remote participation in meetings be an infrequent event, for both individual board members and Town Boards as a whole. Chairs of Town Boards are encouraged to interpret these rules in a strict fashion and encourage all members to attend meetings in person as a general rule, due to the inherent benefits of physical presence in a meeting.

A member of a Town Board may be permitted to participate remotely in a meeting if the member determines that one or more of the following factors makes the member’s physical attendance unreasonably difficult yet still leaves that member able to actively participate in the meeting:

- a. Personal illness;
- b. Personal disability;
- c. Emergency;
- d. Military Service; or
- e. Significant geographic distance.

#### **Technology**

The following media are acceptable methods for remote participation. Accommodations shall be made for any Town Board member who requires TTY service, video relay service, or other form of adaptive telecommunications.

- a. Telephone, internet, or satellite-enabled audio or video conferencing;
- b. Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. Either such event shall be noted in the meeting minutes.

Each individual Town Board that anticipates using remote participation shall determine which of the acceptable methods may be used by its members.

#### Procedures for Remote Participation

1. Any member of a Town Board who wishes to participate remotely shall as soon as reasonably possible prior to a meeting, notify the person chairing the meeting of his or her desire to do so and the reason for and facts supporting his or her request.
2. The meeting chair shall make any necessary arrangements with appropriate Town personnel to ensure that the required equipment is available and to the greatest extent practical, provide access to all meeting materials.
3. At the start of the meeting the chair shall announce the name of any member who will be participating remotely and the reason for his or her remote participation. This information shall be recorded into the minutes.
4. Members participating remotely may vote and shall be counted as present for the meeting.
5. All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
6. Remote participation shall not be allowed when the Town Board is participating in an Executive Session.
7. The Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Board Members.
8. Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any meeting that no other person is in proximity who could exert undue influence on the participant and shall inform the chair if that situation changes.
9. The chair of any committee for which a request is received to participate remotely shall provide to the Board of Selectmen, no later than December 31 of each year, a report that indicates the date(s) of any meetings for which remote participation was requested, the name(s) of the individuals making the request, and a summary of any logistical, technical and compliance issues related to remote participation.
10. Under no circumstances may a member of a Town Board participate remotely in more than 10% of the Board's meetings on an annual basis.
11. Remote participation may not always be available in all meeting locations at all times.

## **Section 2.03 Computer Use – Under Review**

### **1. Introduction**

1.1 The Town of Lunenburg provides staff with computer equipment and the ability to communicate and receive information using electronic mail and the Internet. The Town utilizes this technology to improve staff efficiency and communication, and to serve the public more effectively. These computer resources are the property of the Town of Lunenburg and should be used for appropriate business purposes only. Town employees are expected to use their access to electronic mail and the Internet in a responsible and informed way.

Questions regarding acceptable use can be referred to the Technology Director or the Town Manager's Office.

### **2. Prohibited Activities**

The following activities are strictly prohibited:

- a. Any illegal activity including but not limited to the transmission of copyrighted or trade secret materials, obscene or threatening materials, or the participation in any type of criminal activity.
- b. Disparagement of any individual or group.
- c. Transmission of materials used for commercial promotion, product endorsement, solicitation of any religious cause or political lobbying.
- d. Attempts to violate the Town of Lunenburg computer system or the computer system of any other municipality, institution, organization, company or individual.
- e. Software piracy, or the downloading and transferring of software for which the user does not have proper licensing.
- f. Personal gain

### **3. Use of Computers**

3.1 Authorized Use. Computers are provided for specific employees who utilize them to perform their job functions. Department Heads are responsible for determining which personnel are authorized to use each computer under the Department Head's purview. Any unauthorized use of computer equipment is prohibited.

3.2 Software. The copying or installing of software programs without prior approval of the Technology Director or the Town Manager is prohibited.

3.3 Virus Checking. Data files such as word processing documents, spreadsheets and database files which originate from computers other than those located in a Town office must be checked for viruses before use. Users needing procedures for checking viruses should contact the Technology Director. The Technology Director may impose additional restrictions or regulations on the importing of files from computers outside the Town's network.

3.4 Storage. Documents and data files stored on the town's computers are the property of the Town and may be accessed by authorized personnel for the purposes of, but not limited to, system maintenance, back-up recovery, virus checking and adherence to this policy.

### **4. Use of Passwords**

4.1 Confidentiality. Passwords should be kept confidential at all times. Employees should endeavor to create passwords that are unique and not easily discoverable.

4.2 Changing Passwords. Users should periodically change their passwords. Users that need instructions for changing their password should contact the Technology Director.

### **5. Use of Electronic Mail/ Email and Website**

5.1 Town Business. Email and the Website are effective ways to communicate with town employees and other job related contacts. Email and the Website are to be used for town business only. Email and any related online services, are the property of the Town of Lunenburg. Abuse of this privilege could result in the loss of Email and the Internet for the individual.

5.2 Content. Email and the Website should never be used for any illegal activity, including but not limited to, the transmission of copyrighted or trade secret material, the transmission of obscene, defamatory, or threatening material, or the propagation of any type of criminal activity. Email and the Website should also never be used to create offensive or disruptive messages or images. Among those things which are considered offensive are any messages or images which contain sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability.

5.3 Public Record. Users are considered the custodians of their messages and should maintain messages according to relevant public records law.

5.4 Confidential Information. Confidential information should never be transmitted to anyone not authorized to receive such information, including other unauthorized Town employees.

5.5 Privacy. The privacy and confidentiality of e-mail transmissions cannot be assured. E-mail transmissions may be subject to disclosure through legal proceedings or otherwise through various laws that may be held to apply to such transmissions. Further, users need to take into consideration the applicability of the open meeting law when participating in an electronic conversation through email, chat or other such method of electronic communication.

The Town reserves the right for legitimate business purposes to monitor, review and retrieve any information stored on or transmitted with Town equipment and, therefore, users should not have an expectation that their e-mail communication, or documents stored on Town equipment, will remain private.

5.6 Unsolicited Email. Unsolicited email received from the Internet should not be opened. The user should delete the message immediately. Never open an attachment, especially if you do not know the source. Opening unknown attachments could initiate a virus.

## 6. Use of Internet Browsing Software

6.1 Privileges. Internet browsing capabilities are extended to those personnel requiring access to information on the World Wide Web.

6.2 Job Functions. Browsing should be limited to Internet sites directly related to the user's job function.

6.3 Downloading. Under no circumstances should software programs be downloaded from the Internet and/ or installed without the prior permission of the Technology Director of the Town Manager. See section 3.2.

6.4 Downloading Documents. Careful consideration should be made before downloading data files (word processing and spreadsheet files from an Internet site. The reliability of the source of the document should be considered. Since harmful programs can be transmitted via documents, all documents must be checked for viruses prior to use. See Section 3.3.

## 7. Referral to the Technology Director

7.1 Unusual Occurrences. All matters relating to unusual occurrences must be reported immediately to the Technology Director. When something unusual occurs, record information such as steps taken and warnings from the computer to aid the Technology Director in diagnosing the situation.

8. Sanctions. Any employee who violates this policy or uses the Town's computer system for inappropriate purposes shall be subject to disciplinary action, up to and including discharge.

## **Section 2.04 Email Policy by Boards/Committees**

All Governmental Bodies within the Town of Lunenburg should not exchange emails between a quorum (simple majority) of the Board, Committee or Commission, either on a collective basis or on a serial basis on substantive matters as a matter of abiding by the Open Meeting Law. Distribution of a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at a meeting generally does not constitute deliberation, provided that, when these materials are distributed, no member of the public body expresses an opinion on matters within the body's jurisdiction to other members of the public body. Communication among less than a quorum of the members of the public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. When members of a public body communicate in a serial manner in order to evade the Open Meeting Law, this is a violation of the law.

## **Section 2.05 Smoking**

Smoking is prohibited in public buildings and outside areas in accordance with Massachusetts General Laws Chapter 270 Section 22. Smoking is also prohibited in any town owned or leased vehicle or while an employee is performing his/her job duties.

## **Section 2.06 Vehicle Use Policy**

### **I. Purpose**

The purpose of this policy is to establish guidelines and standards for:

Vehicle Uses – Municipal, Personal, and Stipends

Personal Vehicle Use for Work Related Travel

Municipal Vehicle Assignments

Commuting and Imputed Tax

Vehicle Accident Reporting

Responsibilities When Driving a Municipal

Policy Exemptions

### **II. Applicability**

The entire policy applies to all Lunenburg employees. Employee's whose employment is regulated by individual agreement or collective bargaining agreements are subject only to those portions of this policy that are not specifically regulated by law or agreement.

### **II. Definitions**

**Vehicle Stipend** – the amount approved by the governing Board to compensate an employee for regular and routine use of a Personal Vehicle for work related travel. Vehicle Stipends are considered a salary item and as such, are subject to taxation.

**Expense Reimbursement** – payment for approved expenses relating to Personal Vehicle use upon receipt of written documentation. Expense reimbursement is not considered to be a salary item.

**Municipal Vehicle** – those automobiles, truck, vans, or other self-propelled equipment owned, rented, or leased by the Town and licensed for travel on a public way.

**Personal Vehicle** – that vehicle owned or available for private use by the employee.

**Commuting** – the use of Municipal Vehicle for travel between the employee's residence and his or her principal work location. Under Internal Revenue Service (IRS) regulations, the benefit of using a Municipal Vehicle for commuting is considered taxable income to an employee and the value of the personal use of the Municipal Vehicle will be included in his or her compensation.

#### **IV. Vehicle Uses**

##### **Municipal Vehicles**

It is the policy of the Town that certain positions require employee access to Municipal Vehicles, either during their work shift or on a 24-hour on-call basis. Municipal Vehicles are not Personal Vehicles and are not for personal use. Municipal Vehicles should be viewed as belonging to the citizens and are assigned solely for purposes consistent with providing services to those citizens.

##### **Personal Vehicles**

It is the policy of the Town to reimburse employees for reasonable expenses which they incur as a result of Personal Vehicle use on behalf of the Town. Receipts and expense reports must be submitted in a timely manner in order for employee to be reimbursed for such expenses.

##### **Vehicle Stipend**

It is the policy of the Town that in the event an employee is required to use his or her Personal Vehicle on a year round basis, and that employee has not been assigned a Municipal Vehicle, the governing Board may authorize the payment of a Vehicle Stipend. Such stipend may be rescinded with 90-day written notice and will not be paid in combination with personal automobile expense reimbursement.

##### **Registering and Insuring a Vehicle**

Whenever a new vehicle is purchased and registered, the Payroll/Benefits/Risk Management Coordinator and the Selectmen's office must be notified and appropriate paperwork completed immediately to add the vehicle to the Town's insurance policy.

#### **V. Administrative Requirements**

##### **Reimbursement of Work-Related Travel Expenses**

When an employee is authorized to use a Personal Vehicle for work-related travel, he or she shall be reimbursed for mileage at the IRS standard mileage rate, unless covered by contract or stipend. According to the IRS, the standard mileage rate for business purposes is based on an annual study of the fixed and variable costs of operating a vehicle. Employees will be notified by the Finance Director/Town Accountant of any changes to the IRS rate.

In accordance with IRS regulations/rulings, the mileage rate is intended to cover, but is not limited to, the cost of fuel, repairs, insurance, all operating costs, and general wear and tear on the Personal Vehicle.

In addition to the mileage rate, the Town will reimburse employees authorized to travel outside of the Town, driving a Personal or Municipal Vehicle, within the scope of employment, for tolls and reasonable parking expenses, when receipts are provided.

Employees receiving a Vehicle Stipend will not be reimbursed for tolls, but may be reimbursed for reasonable parking expenses. Employees will not be reimbursed for tolls that are paid by the employee during his or her normal commute to work.

**Insurance**

Employees who are authorized to use Personal Vehicles for work related travel are required to show proof to the Payroll/Benefits/Risk Management Coordinator, on an annual basis, of the following minimum levels of insurance coverage:

Bodily Injury: \$100,000/\$300,000

Property Damage: \$50,000

Employees will not be reimbursed for commuting between their homes and offices or other regular work locations.

In order to be reimbursed for Personal Vehicle use, employees must complete a Reimbursement Expense Form and submit with appropriate supporting documentation and/or receipts in a timely manner.

**Imputed Income Taxation**

Employees authorized to commute in a Municipal Vehicle may be subject to imputed income regulations as set forth by the Internal Revenue Service, which considers a certain portion of the vehicle use (namely the commute) to be income for the purposes of income taxation. The Town Treasurer shall be responsible for determining any tax liability and will be provided with the names of all employees authorized to use Municipal Vehicles for commuting purposes, and the normal, one-way commuting distance, each by December 1<sup>st</sup> by the Department Heads.

Employees who are assigned marked and unmarked police vehicles, and/or Municipal Vehicles that meet eligibility criteria as defined under 26 CFR 1.274-5T will not be subject to imputed income taxation as a result of the vehicle assignment. This includes Police and Fire Chiefs, Police Deputy Chief, Lieutenants and Detectives.

**VI. Employee Driving Records**

Employees utilizing Town vehicles in the course of their employment shall be subject to driving record check annually through the Registry of Motor Vehicles. This is necessary for the Town to appropriately identify potential risk of liability.

A copy of the operators Massachusetts driving record shall be obtained by the Town Manager and/or the Department Head to verify the historical driving record of the operator.

If the operator has an out of state license, then the operator must provide, upon request, a copy of their existing state driving record to the Payroll/Benefits/Risk Coordinator. Any out of pocket expense in obtaining a copy of the driving record will be reimbursed by the Town upon submission of a receipt, in a timely fashion.

Driving records shall be reviewed by the Town Manager and/or Department Head.

Driving records determined to be a safety concern by the Town Manager, may result in the disapproval of an employee's vehicle use in the course of employment, after consultation with the appropriate Department Head.

**VII. Assignment of Municipal Vehicles**

Employees are required to have a valid motor vehicle license for the class of vehicle to be operated issued by the Commonwealth of Massachusetts or their state of current residence and must show proof of such valid license to his/her Supervisor or Department Head prior to being assigned a Municipal Vehicle. Prior to the assignment of a municipal vehicle, a copy of the operators Massachusetts driving record will be reviewed as described in this policy.

The assignment of Municipal Vehicles for 24-hour use will be made by the Town Manager and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions, as identified in an approved position description provided by the Department Head. The following criteria will be used in the determination of eligibility for 24-hour vehicle use:



Bona-fide non-compensatory reason that requires commuting in the municipal vehicle.  
Officially designated 24 hour on-call status;  
Requirement for frequent emergency availability during non-working hours;  
Issuance of a pager or other communication device; and/or,  
Emergency or other equipment contained in the vehicle.

The vehicles classified as 24 hour emergency use for the Town of Lunenburg are:

- Police and Fire Chiefs
- Police Deputy Chief
- Police Lieutenants and Detectives (unmarked)
- DPW Director

All other vehicles should be secured on Town premises at the close of business:

- All other Police and Fire Vehicles
- Park and Recreation Vehicles
- Cemetery Vehicles

School Department Vehicles and/or Municipal Vehicle assignments may be rescinded in writing for good reason or cause by the Town Manager.

Employees assigned a Municipal Vehicle for 24-hour use shall reimburse the Town for the additional fuel cost for commuting as determined by the Town Treasurer.

### **VIII. Rules and Responsibilities**

- Employees who drive a Municipal or Personal Vehicle are responsible for, but not limited to, the following:
- Municipal Vehicles may only be used for legitimate municipal business.
- Individuals assigned a Municipal Vehicle with commuting privileges may take “incidental personal uses” such as stopping at a grocery store or going to the bank, on his/her way home, but only if the stop does not add mileage to the trip.
- Operators should exercise sound judgment at all times when using assigned Municipal Vehicles and should avoid the appearance of misuse.
- The Massachusetts Ethics Code discusses unwarranted privileges. Using public equipment or resources for personal use constitutes use of an official position to obtain an unwarranted privilege not similarly available to others. Misuse of an assigned Municipal Vehicle is an ethics violation.
- Municipal Vehicles will not be used to transport any individual who is not directly or indirectly related to municipal business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors, etc.). Police Officers transporting individuals in the performance of their normal job duties are exempt from this provision.
- The Town shall not be liable for the loss or damage of any personal property transported in the Municipal Vehicle or for any personal property while using their Personal Vehicle for work related travel.
- Employees are expected to keep Municipal Vehicles clean, and to report any malfunction, damage, needed repairs or other vehicle problems to their supervisors immediately.

- Employees assigned Municipal Vehicles for commuting purposes are expected to park such vehicles in safe locations and to lock the car when not in use. Operators should never leave vehicles unattended with the ignition keys in the lock or anywhere in the vehicle.
- Unless expressly exempted by law, employees are to ensure that they and all passenger(s) in a Municipal Vehicle wear seat belts at all times, if the Municipal Vehicles is so equipped.
- All operators of vehicles that require a CDL must be tested for drugs and alcohol as provided by US DOT regulations and the Town's drug/alcohol policy.
- Employees may not operate Municipal Vehicles or Personal Vehicles being used for work related travel, under the influence of alcohol, illegal drugs or any controlled substances.
- Employees may not smoke in a Municipal Vehicle.
- Employees are prohibited from possessing open alcoholic containers, illegal drugs, or controlled substances in a Municipal Vehicle or in a Personal Vehicle being used for work related travel.
- The transporting of unopened alcoholic containers is limited to "incidental personal use" .
- Police Officers who are required to carry prohibited items in performing their normal job duties are exempt from applicable provisions.
- Employees operating a Municipal Vehicle or a Personal Vehicle while on work related travel, must maintain a valid motor vehicle license issued by the Commonwealth of Massachusetts or the state of their current residence, which must be provided upon request by a Supervisor during a specific or periodic license check.
- Employees operating a Municipal Vehicle or a Personal Vehicle while on work related travel, shall drive defensively and obey all applicable traffic and parking regulations, ordinances, and laws.
- Employees who incur parking or other fines/citations while operating or using an assigned Municipal Vehicle or using a Personal Vehicle on work related travel, will be personally responsible for payment of such fines/citations, unless payment of such fine/citation is approved by the Town Manager.
- Employees who are issued citations for any offense while operating or using a Municipal Vehicle must notify their Supervisor immediately when practicable, but in no case later than 24 hours after the issuance of an issued citation.
- An employee who is assigned a Municipal Vehicle and who is arrested for or charged with a motor vehicle offense for which punishment includes suspension or revocation of the motor vehicle license, whether in his or her Personal Vehicle or in a Municipal Vehicle, must notify his or her Supervisor immediately when practicable, but in no case later than 24 hours after such arrest or charge has occurred. License suspension or conviction of an offense may be grounds for loss of Municipal Vehicle privileges.
- No employee may use a Municipal Vehicle for out of state use without advance approval of the Town Manager.
- When utilizing a Municipal Vehicle, employees are required to obtain fuel from designated Municipal fueling facilities, unless fueling is required in the course of out of town travel.
- Smoking is not permitted in a Municipal Vehicle in accordance with M.G.L. c270 s22. Those utilizing a Personal Vehicle for work related travel should be considerate of others in the vehicle that do not smoke.

#### **IX. Cellular Phones and Handheld Electronic Devices**

The use of hand held cellular phone and handheld electronic devices is prohibited with the exception of placing and receiving calls hands free. In the event of exigent circumstances, employees are expected to keep the call short, use hands-free options if available, refrain from discussion of complicated or emotional matters, and remain focused on the road and driving conditions.

#### **X. Vehicle Accidents**

In the event that an employee's Personal Vehicle is damaged during an approved, work-related trip, and the damage is not due to negligence of the employee, the Town will reimburse the employee to cover the part of the cost of

repair, up to a maximum of \$500 or the amount of the deductible, whichever is less, per occurrence. A copy of a police report and evidence of the employee's vehicle insurance deductible (comprehensive or collision) payment shall accompany any request for reimbursement.

When an employee using a Municipal Vehicle or Personal Vehicle on work related travel is involved in a motor vehicle accident, the operator must:

- Stop the vehicle
- Obtain the following information:
  - Name(s) and address(es) of the other driver(s);
  - Drivers license number(s) of the other driver(s);
  - Name(s) and address(es) of the owner(s);
  - Registration number(s) of the other vehicle(s) involved;
  - Name(s) and address(es) of other driver(s) insurance company(ies); and,
  - Name(s) and address(es) of any witness(es) to the accident.
- Do not admit liability for the accident, even if the employee believes it was their fault.
- Immediately report details to the employee's immediate supervisor.
- When any person has been injured and/or when vehicles have suffered significant damage, the local or state police must be called to the scene.
- Do not move the vehicle in these circumstances until authorized by the Police.
- Unless an injury prevents the operator from doing so, he/she must fill out a Vehicle Accident Report within 48 hours of the accident. A blank copy of the form may be obtained from the Payroll/Benefits/Risk Management Coordinator. The completed VAR shall be filed with their direct Supervisor.
- The Supervisor shall ensure all information is in the report and file a copy with the Town Manager's office.
- The Supervisor shall also file a copy with the appropriate department for placement in the employee's personnel file.

## **XI. Special Circumstances**

This policy is intended to provide a basic framework governing the use of Personal and Municipal Vehicles in the Town and such cannot contain procedures governing every situation that might arise. Employees seeking clarification of this policy should contact their supervisor or the Town Manager. Exemptions from certain provisions of this policy may be authorized by the Town Manager, under mitigating circumstances, after review by the Department Head. Such exemptions must be documented and signed off by the employee (see Attachment A), approved by the Town Manager so as to be placed in the employee's personnel file.

## **XII. Exemptions**

Exemptions to the Vehicle Use Policy are strictly limited. Exemptions that will increase the liability to the Town are not allowed. Issues related to insurance coverage, transportation of individuals unrelated to Municipal business, operating a vehicle without a valid motor vehicle license, are examples of what may not be exempted.

## **XIII. Discipline**

Failure to comply with any and all applicable provisions of this policy may result in disciplinary action up to and including suspension or removal of Town vehicle privileges, suspension and/or termination of employment.

Town of Lunenburg  
Vehicle Use Policy Attachment A – Exemption Form

Employees seeking an exemption from provisions of the Town's *Vehicle Use Policy* must submit this form to their Department Head for review, and then to the Town Manager who may authorize limited exemptions to this policy under documented mitigating circumstances and in accordance with allowed policy exemptions (**see Attachment C**). This form is also placed in the employee's personnel file.

Employee Name: \_\_\_\_\_

FIRST	LAST	M.I.
-------	------	------

Department: \_\_\_\_\_ Title: \_\_\_\_\_

List specific policy sections for exemption consideration and indicate why needed (attach additional paper if required):

---

---

---

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Reviewed: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Department Head Signature      Print Name

Department Head Approved YES \_\_\_\_\_ NO \_\_\_\_\_ INITIALS \_\_\_\_\_

Town Manager Approved YES \_\_\_\_\_ NO \_\_\_\_\_ INITIALS \_\_\_\_\_

Town of Lunenburg Vehicle Use Policy  
Attachment B – Acknowledgement

I, \_\_\_\_\_ (print name), as an employee of the Town of Lunenburg, hereby acknowledge that I have received, read, understand, and agree to abide by the Town's *Vehicle Use Policy*.

If assigned a Municipal Vehicle and/or receive a Vehicle Stipend and/or use a Personal Vehicle for work related travel, I shall comply with the respective provisions of the policy or those portions of the policy not specifically regulated by law or collective bargaining agreement or individual agreement/contract.

In addition, I authorize the Town of Lunenburg to obtain on an annual basis for Municipal Vehicle usage or on a case by case basis for Personal Vehicle usage, and at no cost to me, a copy of my driving record, which shall only be used in determining my safety record, enabling me to be assigned and/or operate a Municipal Vehicle or to use my Personal Vehicle for work related travel, should the need be required. In consultation with the appropriate Department Head, the Town Manager shall make such a determination.

Once signed, this form will be placed in the employee's personnel file for records purposes.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

## Town of Lunenburg Vehicle Use Policy Attachment C – Exemption Limitations

The following is a guide for the Town Manager in determining what sections of the Town's *Vehicle Use Policy* may be exempted.

Keep in mind that **Attachment A** of the *Vehicle Use Policy* must be filled out and appropriately signed, approved, and placed in the employee's personnel file for an exemption to be fully authorized.

Only the following sections of the *Vehicle Use Policy* may be exempted, if the employee provides an adequate mitigating circumstance(s) that is/are approved by the Town Manager.

- If the Town Manager believes that there are extenuating circumstances that require an individual to be assigned a Municipal Vehicle for 24-hour usage, but does not meet the eligibility requirements in this section.
- Municipal Vehicles shall only contain items for which the vehicle is assigned. If this section is exempted, companion section 5.C.4.b shall not be exempted. The Town shall not be liable for the loss or damage of allowable transported non-work related items.
- Deals with obtaining fuel from designated Municipal fueling facilities.

Only the above 3 sections of the *Vehicle Use Policy* may be exempted. All other sections of the policy may not be exempted, whether agreed upon by the Town Manager. Exemptions for individuals with contract agreements with the Town are subject to contract amendments initiated by the Town Administrator to ensure consistency with application and intent, and subsequently approved by the appropriate appointing authority.

By allowing exemptions from the *Vehicle Use Policy*, the Town Manager has determined that any of the above exemptions listed on approved **Attachment A** are needed for the employee to perform his/her job responsibilities more effectively or that the indicated exemptions will not inhibit the employee from further meeting his/her job responsibilities.

## **Section 2.07 Appointments**

Subject to applicable State Law and the Town Charter, the Board shall make its annual appointments at the first regular meeting in June. Appointments made at that meeting shall have terms beginning on July 1 and expiring on June 30. In addition, as the need arises, the Board may make appointments throughout the year for terms to take immediate effect with expiration dates of June 30. Terms shall not exceed three years, unless specifically allowed by Massachusetts General Law.

Appointments shall be based on merit and qualifications that relate to the duties of the subject board, committee or position. Where possible, the Board will seek variety in backgrounds, interest, ages, genders and geographic areas of residents, so that town boards and committees will reflect a true cross-section of the community. In order to attract qualified and interested persons, vacancies and reappointments will be made public as far in advance of the appointment as practicable. The Town Manager will ensure the availability of up-to-date talent bank forms in Town Hall, other town buildings and on the town's website. She/he will also ensure that completed talent bank forms are maintained in an organized and easily retrievable manner, that receipt of the completed form is acknowledged, and that the resident be given a sense of the appointment process.

Reappointment shall not be considered automatic, but shall be based on an evaluation of the appointee's past contribution to the board, committee or position. As part of the annual appointment process, the Town Manager will ask incumbents whose terms will expire on June 30 to fill out a modified talent bank regarding their desire for reappointment and description of their past contributions. The Town Manager will ensure that the Selectmen receive by May 1st a list of appointments and reappointments to be filled by the Board.

As Board-appointed vacancies occur, the Town Manager will ensure that local newspapers are advised of the vacancies, and that vacancy notices are posted on Town bulletin boards and advertised on the town's website and local cable access television channel. Vacancies shall be so advertised for no less than fifteen (15) days. The chairman of the board on which a vacancy occurs will seek talent bank forms, and nomination recommendations from a majority of the relevant committee.

The Board shall meet with applicants to fill any given Board-appointed vacancy or reappointment. This requirement may be waived at the Board's discretion. Appointments shall require a nomination and a second, and shall be made by a majority vote of the Board. Appointees must contact the Town Clerk to be sworn in and be provided with information on the Open Meeting and Conflict of Interest laws.

The Board may from time to time appoint standing or advisory committees to aid on matter under the Board's jurisdiction. The use of such committees provides greater expertise and more widespread citizen participation in the operation of government. The Board will give each advisory committee a written charge, which shall include the work to be undertaken, the time in which it is to be accomplished, and the procedures for reporting to the Selectmen. The Board will discharge committees upon completion of their work. The charges and membership of advisory committees shall be reviewed at least annually to assess the necessity and desirability of continuing the committee.

All committees appointed by the Board shall assure that all committee agendas and minutes are posted on the town's website, in addition to the open meeting posting requirements. Each committee must report in writing at least annually to the Selectmen, and meet with the Board at least once a year. Each committee shall be provided with information on parliamentary procedures

A decision to terminate an appointment may be made by a majority of the Board subject to notice and a right to be heard.

# TALENT BANK FORM

## ACT NOW- SERVE YOUR COMMUNITY

Town government needs citizens who are willing to give time in the service of their community. The Talent Bank was adopted by the Selectmen & Moderator as a means of compiling names of interested citizens to serve on a voluntary basis, on boards and committees. This file is available for use by the public as well as the Moderator and Selectmen. Talent bank forms are being updated to include categories consistent with the changing needs of the Town. Indicate your preference and return the form to:

TOWN GOVERNMENT TALENT BANK C/O BOARD OF SELECTMEN

P O Box 135, Lunenburg, MA 01462

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PRECINCT: \_\_\_\_\_  
OCCUPATION: \_\_\_\_\_ TELEPHONE # \_\_\_\_\_ EMAIL: \_\_\_\_\_  
BACKGROUND: \_\_\_\_\_  
\_\_\_\_\_

## AREAS OF INTEREST (LIST ORDER OF PREFERENCE)

- \_\_\_ AGRICULTURAL COMMISSION - encourage farming in town by overseeing Right to Farm bylaw.
- \_\_\_ ARCHITECTURAL PRESERVATION DISTRICT COMMISSION (APDC)- reviews alterations, including demolitions of properties located within the APD, adopts design guidelines, rules/regulations
- \_\_\_ CABLE ADVISORY COMMITTEE- performs research/makes recommendations for cable license renewal
- \_\_\_ CONSERVATION COMMISSION- administers the Wetlands Protection Act, Local Wetlands bylaws
- \_\_\_ COUNCIL ON AGING- coordinates programs designed for the needs of aging in coordination with the MA Executive Office of Elder Affairs
- \_\_\_ CULTURAL COUNCIL - reviews applications for local arts and cultural events and awards grant funds received from the MA Cultural Council.
- \_\_\_ FINANCE COMMITTEE- reports to town meeting on the proposed budget of town manager and any warrant articles having a fiscal impact on the Town.
- \_\_\_ GREEN COMMUNITY TASK FORCE- works to improve town's environment/energy use and makes recommendations on other green initiatives.
- \_\_\_ HISTORICAL COMMISSION - caretakers of the Town history.
- \_\_\_ HOUSING PARTNERSHIP - addresses local housing needs through a collaborative effort between local govt., community organizations, banks and the private sector.
- \_\_\_ PERSONNEL COMMITTEE- responsible for bylaw administration, establishment of salary schedules, employee benefits and policies
- \_\_\_ PUBLIC ACCESS CABLE COMMITTEE- oversees policies for local access televisions in public affairs, education, entertainment and government.
- \_\_\_ STORMWATER TASK FORCE-develops a comprehensive stormwater management plan
- \_\_\_ ZONING BOARD OF APPEALS- hears and decided on applications for variances, special permits and comprehensive permits.
- \_\_\_ OTHER (please list) \_\_\_\_\_



# REQUEST FOR REAPPOINTMENT FORM

## CONTINUE TO SERVE YOUR COMMUNITY

We appreciate your service to the town. The Board of Selectmen wants to maintain good working relationships with all boards, committees, commissions and positions to which the board makes appointments. If you would like to continue to serve the town please fill out the information below. Again, we thank you for your service to Lunenburg.

**Town Government Reappointment c/o Board of Selectmen**  
**PO Box 135, Lunenburg, MA 01462**  
-----

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

Current town appointment: \_\_\_\_\_ E-Mail Address \_\_\_\_\_

Please describe how you contributed to your committee/position during the tenure of your appointment:

What recommendations do you have to improve operations of your committee/position?

What resources are not currently available that would help you accomplish the goals and mission of your committee or position?

### **III. Article III. Financial**

#### **Section 3.01 Borrowing** *(Amended 08/2017)*

#### **BORROWING, LIMITS ON DEBT SERVICE COSTS**

**A. The Town incurs debt either through exempt borrowing or through regular borrowing.**

**B. Definitions:**

**1. Exempt borrowing is funded by an increase in the tax levy outside the limits of proposition 2 ½ for the duration of the debt only. This requires the Town's prior approval, through a referendum vote, to raise the property tax levy. Exempt borrowing is also referred to as excluded borrowing.**

**2. Regular Borrowing is borrowing funded by the revenues of the Town and does *not* increase the tax levy. Regular borrowing is referred to as non-exempt or non-excluded borrowing.**

**The Town may choose to fund the purchase of an asset through regular borrowing, provided the asset:**

**1) Costs more than \$100,000, and**

**2) Has a projected useful life of no less than ten years.**

**Note: The Town records debt service costs from exempt borrowing and regular borrowing in the Debt Service Schedules spreadsheet maintained by the Town Accountant.**

**3. Debt service costs incurred and paid by Enterprise Funds (e.g. Sewer and Water Departments) are excluded from this policy and from all calculations on debt service cost ratios set forth in section C. Payment of these costs is from revenue sources separate from the Town's tax levy.**

**4. The Regular Tax Levy is the sum of the prior year levy, plus the increase allowed by prop 2 ½, plus new growth. The regular tax levy is exclusive of all revenues from debt exclusion overrides.**

**Note: The Town's property tax levy information by fiscal year is shown on the Revenues/Expenditure sheet of the Town's Annual Budget document.**

5. **The Total tax levy includes the regular tax levy and all additions to the regular levy from debt exclusion overrides.**

**C. Limits on debt service costs.**

1. Regular borrowing debt service costs should not exceed four percent of the regular tax levy.  
The formula: Net debt service costs from regular debt divided by the regular tax levy.
2. Aggregate annual debt service costs of all exempted debt should not exceed 11% of the total tax levy.  
The formula: Net debt service costs from exempted debt divided by the total tax levy.

3. **Aggregate debt service costs of debts financed by regular borrowing and by debt exclusion overrides should not exceed 14 percent of the total tax levy.**

**The formula: (Net debt service costs from regular debt + Net debt service costs from exempted debt) divided by the Total tax levy.**

4. **Irrespective of the method of funding debt (regular borrowing or exempt borrowing) the term of any bond to pay for an asset should not exceed the anticipated useful life of the asset.**

**D. Process and borrowing to pay for emergencies.**

1. **In accordance with MGL Ch. 44, Section 2, and any other applicable laws, the Town may authorize debt to acquire any asset(s) through regular borrowing only by at least a two-thirds vote in favor at a Town Meeting.**
2. **In the case of borrowing to pay costs arising from an emergency the Town should repay the debt over as short a period as is practicable up to a maximum of five years, considering the effect that funds to repay this debt may have on the Town's ability to pay operating expenses.**

## **Section 3.02 Capital Budget** *(Amended 09/02/2014)*

**A. Capital Projects: Definition, criteria**

1. Capital Projects (also referred to as capital assets) are any tangible item that costs \$10,000 or more and has a useful life of three years or longer.
2. Individual items that cost at least \$10,000 and groups of items of the same purpose that cost at least \$10,000 are both capital items.

**B. Capital Plan: Acquisitions and Expenditures**

1. The Capital Plan includes all proposed capital projects.

- a) This includes projects proposed but not yet acquired in prior fiscal years and those projects proposed during the current fiscal year.
- b) Initial purchase of a group of items to establish a new program or new use shall be in the Capital Plan, with sustaining future purchases to be handled through the departmental operating budget unless these re-purchases meet the requirements of capital projects set forth in Section III. A. 1 and 2 above.
- c) Each submittal of each item to the Capital Planning Committee shall include a financial impact statement regarding its effect on the relevant departmental operating budget(s).

2. Expenditures for Capital Projects:

- a) Expenditures to acquire capital assets that do not involve financing through a debt exclusion override vote (see Section 2. (f) below) will be presented to the Town Meeting for approval or disapproval.
- b) If costs of any approved capital project exceed the amount voted for at Town Meeting, the department which will use the capital equipment may pay the additional costs from their operating budget.
- c) Another option is that because the capital budget is presented to Town Meeting as a lump sum, money may be moved from one item to another as necessary after Town Meeting without further approval from a subsequent Town Meeting. The Town Accountant should notify the Capital Planning Committee of any reallocation of funds within the capital budget from one capital project to another.
- d) If a capital project cannot be acquired for the amount approved at a Town Meeting and the department cannot pay the additional cost out of their current budget (see III. B. 2 c. above) the amount for the capital project may remain in the original approved article, and a request for the project may remain in the original approved article and a request for the additional amount needed may be added to the original approved article and presented to be voted on at a subsequent Town Meeting.
- e) Any unspent monies for capital expenditures that are less than the amount appropriated will be applied in the following fiscal year to another capital project. If these monies are from the unexpended balance of a loan, the Town may appropriate this balance to another capital project. The Town will attempt to insure that the term of borrowing for the new capital project is of equal or shorter duration than the projected life of the project.

**Financing Large Capital Projects (eg. Buildings)**

In cases that a proposed capital project or acquisition is sufficiently costly, a temporary increase (not to exceed 30 years) in the tax levy may be used to fund the project or acquisition. This is a Capital Outlay Expenditure Exclusion, also referred to as a debt exclusion override. Debt exclusion overrides require:

- A. Approval by the Board of Selectmen by two thirds vote, and
- B. Approval by two-thirds vote at Town Meeting, and
- C. Approval by a simple majority of a town vote at the ballot.

When the Town finances purchase of capital assets through borrowing, the term of borrowing shall not exceed the anticipated useful life of the capital asset.

**The Capital Planning Process**

- A. The Capital Planning Committee (CPC) creates a Capital Plan that consists of all capital requests made by each town department for the next five fiscal years.

- B. The CPC reviews all the capital projects requests as a group.
- C. The CPC meets with each department head to discuss and review each capital project request that department made.
- D. Based on these individual meetings, the CPC prioritizes all the capital project requests for the next fiscal year and presents the prioritized list to the Town Manager.
- E. The Town Manager may modify and/or add to this list of capital projects as part of the proposed budget for the next fiscal year. This budget will be presented at the Annual Town Meeting, amended as necessary to reflect the will of Town Meeting, and voted on.

### **Section 3.03 Free Cash** *(Amended 09/02/2014)*

- A. Free Cash, Definition, Process of Establishing
  - 1. Free cash is the remaining, unrestricted funds of operations of the Town's previous fiscal year net after certain revenue deficits (e.g. unpaid property taxes) Free cash is a non-recurring source of revenue. It includes:
    - a) Unexpended Free Cash from the previous year,
    - b) Actual receipts in excess of revenue estimates, and
    - c) Unspent amounts in budget line-items.
- B. Provided monies from these three sources are neither encumbered nor reserved, they comprise the Town's undesignated fund balance [UFB] at the end of the previous fiscal year.
  - 1. The Town cannot spend monies in the UFB until the MA Dept. of Revenue [DOR] certifies that portion of the UFB is available to be expended by the Town.
  - 2. Certification of the UFB by the DOR involves identifying if the Town has revenue short-falls from the previous fiscal year, (e.g. unpaid property taxes) or other revenue deficits. If so, the Town should apply money from the UFB equal to the amount of these revenue deficits, or if the revenue deficits exceed the amount of the deficits in revenue from the previous year, the entire amount in the UFB.
  - 3. The portion of the UFB that the DOR certifies becomes Free Cash, which the Town can spend.
- C. Priorities for Applying Free Cash:
  - 1. The highest priority use of Free Cash should be to increase the balance of the Stabilization Account if necessary to a level of at least five percent of the current fiscal year omnibus budget.
  - 2. The next highest priority use of Free Cash is to fund purchases of materials needed to repair and/or replace town roads and signage. These purchases should be limited to the amount of monies remaining in the Free Cash Account or the amount of materials that the Dept. of Public Works [DPW] personnel and equipment can realistically be expected to utilize in the current fiscal year.
  - 3. Any monies that remain in Free Cash may be used to fund one-time expenditures for specific departments and/or special projects at the discretion of the Town Manager, subject to appropriation by Town Meeting.

- D. Because Free Cash is non-recurring revenue, it should not be used to fund any personnel, program, or initiative that would require expenditures in subsequent fiscal years.

### **Section 3.04 Stabilization and General Reserve Fund**

*(Amended 09/02/2014)*

#### **A. Definition and Purpose:**

1. Stabilization Funds are one or more special reserve accounts allowed by MGL c. 40 §§ 5A, 5B, 5C to provide extraordinary or unforeseen expenditures.
  - a) Cities and towns may appropriate an amount not to exceed ten percent of the amount raised the preceding fiscal year by taxation of real estate and tangible personal property.
  - b) The aggregate amount in all Stabilization Funds may not exceed ten percent of the equalized valuation of the Town.
  - c) The Town Treasurer shall be the custodian of all such funds and may deposit the proceeds and all interest shall be added to and become part of the fund.
  - d) General stabilization funds may be for any lawful purpose, including without limitation an approved school project under c. 70B or any other purpose for which the city, town or district may lawfully borrow money.
  - e) Designated stabilization funds are earmarked to be used for a specific purpose. An example of a designated stabilization fund is the Zoning Incentive Stabilization Fund, established to fund projects specifically benefitting the area around the Tri-Town landing development.
  - f) Any appropriation of funds out of any such fund(s) shall be approved by a two thirds vote at an Annual or Special Town Meeting.

#### **B. Stabilization Fund Policy/Guidelines:**

1. Fund Balances: A minimum balance equal to five percent of the current omnibus budget should be maintained in the aggregate of the general stabilization fund and all dedicated stabilization funds of the Town. The Town should maintain a balance in the general stabilization fund of no less than four percent of the prior year's omnibus budget. The total of all funds should not exceed ten percent of the prior years' omnibus budget.
2. Withdrawals from the Stabilization Fund:
  - a) Withdrawals from the stabilization fund may be appropriated for any lawful purpose.
  - b) Because funding of stabilization fund(s) may include funds from non-recurring sources (like free cash), withdrawals should only be used to mitigate a non-recurring, extraordinary , catastrophic or emergency event or events that cannot be supported by current general fund appropriations.
  - c) Withdrawal of funds should be limited when possible to the amount available above the five percent minimum fund balance.
  - d) Any appropriations from this fund shall require a two thirds vote at an Annual or Special Town Meeting.
3. Replenishing the Fund:

- a) When withdrawals from the Stabilization Fund result in a balance that is below the minimum level of five percent of the current omnibus budget, the Town Manager shall develop a detailed plan that will replenish the fund until it reaches at least five percent of the omnibus budget as expeditiously as practicable, ideally a period not to exceed three years.
- b) When increases in proposed omnibus budgets result in a balance in the Stabilization Fund(s) that is less than five percent of the proposed omnibus budget level, sufficient money should be allocated in the proposed omnibus budget to increase the stabilization fund(s) balance to at least five percent of the proposed omnibus budget. If this is not possible, the Town Manager shall develop a plan that replenishes the Stabilization Fund balance to a level that is no less than five percent of the proposed budget level as expeditiously as practicable, ideally a period not to exceed three years.

### **C. General Reserve Account (Fund)**

1. MGL c. 40 § 5C, 6 allows towns to establish General Reserve Funds “to provide for extraordinary or unforeseen expenditures”.
2. Before the Town expends funds from the General Reserve Fund to pay extraordinary or unforeseen expenses, the Town should employ other funding mechanisms (e.g. budgetary transfers) to pay for those expenses.
3. The Town’s General Reserve Fund balance is currently set at \$50,000 and the level should be set annually as part of the budget review process. The law limits the General Reserve Fund to an amount not to exceed five percent of the Town’s tax levy for the preceding year but the policy of the Town is that it should not exceed one-half of one percent of the current omnibus budget for the Town.

## **Section 3.05 Warrants**

All warrants must be available for review and signature by 5:30 p.m. on the meeting date.

## **Section 3.06 Investment Policy Statement** *(Approved 10/06/2015)*

### **I. The Investment of General Funds, Special Revenue Funds, Enterprise Funds, and Capital Projects Funds**

#### **A. Scope**

This section of the IPS applies only to short term operating funds such as general funds, special revenue funds, enterprise funds, bond proceeds and capital project funds. Section two will deal with trust funds, and any other funds with special circumstances such as stabilization funds. A separate Contributory Retirement Board, either local or county, is responsible for the investment of the pension funds.

#### **B. Objectives**

Massachusetts General Laws, Chapter 44, § 55B requires the municipal/district treasurer to invest all public funds except those required to be kept uninvested for purposes of immediate distribution. Modern banking systems enable the public treasurer to maintain even these funds in interest bearing form until the date a disbursement order clears through the banking system.

The state law further requires that invested funds are to be placed at the highest possible rate of interest reasonably available, taking into account the acceptable levels of safety, liquidity and yield. Therefore, these guidelines are intended to further the objective of securing the highest reasonable return available that is consistent with safety of principal while meeting the daily cash requirements for the operation of the entity's business.

- **Safety** of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to preserve capital through the mitigation of credit risk and interest rate risk. These risks shall be mitigated by the diversification and prudent selection of investment instruments, and choice of depository. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of the security will fall due to changes in general interest rates.
- **Liquidity** is the next most important objective. The overall investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. Since all possible cash demands cannot be anticipated, the treasurer shall attempt to carry out investment activities in a manner that provides for meeting unusual or unexpected cash demands without requiring the liquidation of investments that could result in forfeiture of accrued interest earnings, and loss of principal in some cases.
- **Yield** is the third, and last, objective. Investments shall be undertaken so as to achieve a fair market average rate of return, taking into account safety and liquidity constraints as well as all legal requirements.

### C. Investment Instruments

**Note:** Public investments in Massachusetts are not protected through provisions in State law. Therefore, they are largely uncollateralized. Many banking institutions are willing to put up collateral, albeit at a cost to the entity resulting in a lower interest rate. The Treasurer negotiates for the highest rates possible, consistent with safety principles.

The Treasurer may invest in the following instruments:

- Massachusetts State pooled fund: **Unlimited amounts** (Pool is liquid)
  - The Massachusetts Municipal Depository Trust (MMDT), an investment pool for state, local, county and other independent governmental authorities, is under the auspices of the State Treasurer and currently managed by Fidelity Investments. It invests in Bankers Acceptances, Commercial Paper of high quality, Bank Certificates of Deposit, Repurchase agreements (Repos), and U. S. Treasury Obligations. It has Federal Deposit Insurance Corporation (F.D.I.C.) pass-through insurance on the CD's up to the standard limits and takes delivery on the Repos and Treasuries. Under Government Accounting Standards Board Regulation (GASB III), it is not considered an uncollateralized product.
- U. S. Treasuries that will be held to maturity: **Unlimited amounts** (Up to one year maturity from date of purchase)
- U.S. Agency obligations that will be held to maturity. **Unlimited amounts** (Up to one year maturity from date of purchase)
- Bank accounts or Certificates of Deposit ("CDs") (Up to one year) which are fully collateralized through a third party agreement: **Unlimited Amounts**
- Bank accounts and CDs (Up to one year) insured by F.D.I.C. up to the coverage limit. All bank accounts and CDs in one institution are considered in the aggregate for the insurance coverage limit. In some cases Banking Institutions carry additional insurance, Depository Insurance Fund (D.I.F.): Contact banking representative for amounts of coverage.
- **Unsecured bank deposits** of any kind such as other checking, savings, money market, or Certificates of Deposit accounts at Banks that do not fit the above categories. These investments are subject to the following limitations: No more than 5% of an institution's assets and no more than 25% of a municipality's cash may be comprised of unsecured bank deposits. This percentage may be increased for not more than 30 days during times of heavy collection or in anticipation of large payments that will be made by the Town in the near future. These payments may be for such items as debt service payment or regional school assessments. Their credit worthiness will be tracked by Veribanc, or other bank credit worthiness reporting



systems. They will be diversified as much as possible. CDs will be purchased for no more than one year and will be reviewed frequently.

- **Money Market Mutual Funds** that are registered with the Securities and Exchange Commission that have received the highest possible rating from at least one nationally recognized statistical rating organization and as otherwise referenced in the Massachusetts General Law Chapter 44 § 55.

- **Risk Tolerance**

- **Credit Risk**

- “Credit risk” is the risk that an issuer or other counterparty to an investment will not fulfill its obligations.

The Town will manage credit risk several ways. There will be no limit to the amount of United States Treasury and United States Government Agency obligations.

In regards to other investments, the Town will only purchase investment grade securities with a high concentration in securities rated A or better.

The Town may invest in the Massachusetts Municipal Depository Trust (MMDT) with no limit to the amount of funds placed in the fund.

The Town may place funds in banking institutions as stated in Section C of this IPS.

- **Custodial Risk**

- The “custodial credit risk” for *deposits* is the risk that, in the event of the failure of a depository financial institution, a municipality will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. The custodial credit risk for *investments* is the risk that, in the event of the failure of the counterparty to a transaction, a municipality will not be able to recover the value of investment or collateral securities that are in the possession of an outside party.

The Town will review the financial institution’s financial statements and the background of the Advisor. The intent of this qualification is to limit the Town’s exposure to only those institutions with a proven financial strength, Capital adequacy of the firm, and overall affirmative reputation in the municipal industry.

Further, all securities not held directly by the Town, will be held in the Town’s name and tax identification number by a third-party custodian approved by the Treasurer and evidenced by safekeeping receipts showing individual CUSIP numbers for each security.

- **Concentration of Credit Risk**

- “Concentration of credit risk” is the risk of loss attributed to the magnitude of a government’s investment in a single issuer.

The Town will minimize concentration of credit risk by diversifying the investment portfolio so that the impact of potential losses from any one type of security or issuer will be minimized.

- **Interest Rate Risk**

- “Interest rate risk” is the risk that changes in interest rates will adversely affect the fair value of an investment.

The Town will manage interest rate risk by managing duration in the account.

- **Foreign Currency Risk**

- “Foreign currency risk” is the risk that changes in foreign monetary exchange rates will adversely affect the fair value of an investment or a deposit.

The Town will not invest in any instrument exposed to foreign currency risk.

#### **D. Diversification**

Diversification should be interpreted in two ways: in terms of maturity as well as instrument type and issuer. The diversification concept should include prohibition against over concentration of maturities, as well as concentration in a specific institution. With the exception of U.S. Treasury obligations or investments fully collateralized by U.S. Treasuries or agencies, and State pools (MMDT), no more than 10% of the Town's investments shall be invested in a single financial institution.

#### **E. Authorization**

The Treasurer has authority to invest municipality/district funds, subject to the statutes of the Commonwealth Massachusetts General Law Chapter 44, § 55, 55A & 55B.

#### **F. Ethics**

The Treasurer (and Assistant Treasurer) shall refrain from any personal activity that may conflict with the proper execution of the investment program or which could impair or appear to impair ability to make impartial investment decisions. Said individuals shall disclose to the Chief Executive Officer any material financial interest in financial institutions that do business with the town. They shall also disclose any large personal financial investment positions or loans that could be related to the performance of the town's investments.

#### **G. Relationship with Financial Institutions**

Financial institutions should be selected first and foremost with regard to their financial soundness and stability. The Town subscribes to the Veribanc Rating Service to evaluate the banking institutions with which it chooses to establish relationships. Brokers should be recognized, reputable dealers and members of the Financial Industry Regulatory Authority (FINRA).

In instances where the Town does not purchase the Veribanc Rating Service, the Treasurer should request the banking institution's Veribanc rating from all of the banking institutions that are working with the Town on a quarterly basis.

When using the Veribanc Rating Service the Treasurer may invest in such banks that show a green rating in a particular quarter. If a rating is yellow the Treasurer should contact the appropriate banking institution and request in writing an explanation of the change in rating and the expected time table for it to be changed to green.

If for a second quarter such rating is not green, the Treasurer should consider removing all funds that are not collateralized, or carries some form of depositors insurance.

If a rating moves to red all money should be immediately collateralized or covered by some form of depositors insurance or be removed from the banking institution.

The Treasurer shall require any brokerage houses and broker/dealers wishing to do business with the municipality to supply the following information to the Treasurer on an annual basis:

- Annual financial statements

- If acting as a Registered Investment Advisor, copy of their most recent Form ADV
- Proof of FINRA membership
- A statement that the Advisor has read the municipality's IPS and will comply with it on an annual basis
- Proof of credit worthiness (minimum standards: at least five years in operation and a minimum capital of 10 million dollars)

#### **H. Reporting Requirements**

On a quarterly basis, a report containing the following information will be prepared by the Treasurer and distributed to the Chief Executive Officer, Town Manager, and/or Finance Committee, as appropriate. The quarterly report will include the following information, as a minimum requirement.

- A listing of the individual accounts and individual securities held at the end of the reporting period.
- A listing of the short-term investment portfolio by security type and maturity to ensure compliance with the diversification and maturity guidelines established in the "Diversification" section of this IPS.
- A summary of the income earned on a monthly basis and year-to-date basis shall be reported.
- The municipal treasurer shall include in the report a brief statement of general market and economic conditions and other factors that may affect the Town's cash position.
- The report should demonstrate the degree of compliance with the tenets set forth in the IPS.

#### **I. Restrictions**

Chapter 44, § 55 sets forth several restrictions that the Treasurer must be aware of when making investment selections.

- A Treasurer shall not at any one time have on deposit in a bank or trust company an amount exceeding 60% of the capital and surplus of such bank or trust company, or banking company, unless satisfactory security is given to it by such bank or trust company, or banking company for such excess.
- The treasurer shall not make a deposit in any bank, trust company or banking company with which he is, or for any time during the three years immediately preceding the date of any such deposit was, associated as an officer or employee.
- All securities shall have a maturity from date of purchase of one year or less.
- Purchases under an agreement with a trust company, national bank or Banking Company to repurchase at not less than original purchase price of said securities on a fixed date shall not exceed ninety days.

#### **J. Legal References**

Massachusetts General Law Chapter 44, § 55  
 Massachusetts General Law Chapter 44, § 55A  
 Massachusetts General Law Chapter 44; § 55B

### **II. The Investment of Trust Funds and Stabilization Funds**

This section of the IPS applies only to funds that could be invested long term, i.e. trust funds, stabilization funds and community preservation act funds.

#### **A. Scope**

This IPS applies to all accounts that are designated as Trust Funds and Stabilization Funds. These funds include all accounts that are received as scholarships and perpetual care receipts. In addition the Town has placed Stabilization Funds in this account.

All accounts will be maintained separately receiving their proportionate interest and any realized and unrealized gains or losses. The account will be established as a pooled investment portfolio unless otherwise stated. Any additional accounts will be maintained in this same manner.

#### **B. Authority**

Massachusetts General Law Chapter 44, § 54 pertains to the investment of Trust Funds. All trust funds shall fall under the control of the Town Treasurer unless otherwise provided or directed by the donor.

### C. Objective

Massachusetts General Laws, Chapter 44, § 55B requires the Town Treasurer to invest all public funds except those required to be kept uninvested for purposes of immediate distribution.

This section also requires that invested funds are to be placed at the highest possible rate of interest reasonably available, taking into account the acceptable levels of safety, liquidity and yield. Therefore, these guidelines are intended to further the objective of securing the highest reasonable return available that is consistent with safety of principal while meeting the daily cash requirements for the operation of the entity's business.

- **Safety** of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to preserve capital through the mitigation of credit risk and interest rate risk. These risks shall be mitigated by the diversification and prudent selection of investment instruments, and choice of depository. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of the security will fall due to changes in general interest rates.
- **Liquidity** is the next most important objective. The overall investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. Since all possible cash demands cannot be anticipated, the treasurer shall attempt to carry out investment activities in a manner that provides for meeting unusual or unexpected cash demands without requiring the liquidation of investments that could result in forfeiture of accrued interest earnings, and loss of principal in some cases.
- **Yield** is the third, and last, objective. Investments shall be undertaken so as to achieve a fair market average rate of return, taking into account safety and liquidity constraints as well as all legal requirements.

### D. Investment Instruments

M.G.L. Chapter 44, § 54 states that money should be deposited into savings bank, trust companies incorporated under the laws of the Commonwealth, banking companies incorporated under the laws of the Commonwealth which are members of the Federal Deposit Insurance Corporation, or national banks, or invested in participation units in a combined investment fund under section thirty-eight A of chapter twenty-nine, or in a paid-up shares and accounts of and in co-operative banks, or in shares of savings and loan associations or in share or savings deposits of federal savings and loan associations doing business in the commonwealth.

Additionally the Town may invest such funds in securities, other than mortgages or collateral loans, which are legal for the investment of funds of savings banks under the laws of the commonwealth; provided, that not more than fifteen percent (15%) of any such trust funds shall be invested in bank stocks and insurance company stocks, nor shall more than one and one-half percent (1 ½%) of such funds be invested in the stock of any one bank or insurance company.

**The Treasurer may invest in the following instruments:**

- U. S. Treasuries that maybe sold prior to maturity: **Unlimited amounts (With no limit to the length of maturity from date of purchase)**
- U.S. Agency obligations that maybe sold prior to maturity. **Unlimited amounts (With no limit to the length of maturity from date of purchase)**
- Bank accounts or Certificates of Deposit (“CDs”) **Unlimited amounts (With no limit to the length of maturity from date of purchase)**, which is fully collateralized through a third party agreement:
- Bank accounts and CDs **(With no limit to the length of maturity from date of purchase)** fully insured by F.D.I.C. and in some cases also Depository Insurance Fund of Massachusetts (D.I.F.): All bank accounts and CDs in one institution are considered in the aggregate to receive the insurance coverage limit.
- **Unsecured bank deposits** of any kind such as other checking, savings, money market, or Certificates of Deposit accounts at Banks that do not fit the above categories. These investments are subject to the

following limitations: These investments **will be limited to no more than 5% of an institution's assets and no more than 25% of a municipality's cash**. This percentage may be increase for not more than 30 days during times of heavy collection or in anticipation of large payments that will be made by the Town in the near future. These payments maybe for such items as debt service payment or regional school assessments. Their credit worthiness will be tracked by Veribanc, or other bank credit worthiness reporting systems. They will be diversified as much as possible. CDs will be purchased with no limit to the length of maturity from the date of purchase and will be reviewed frequently.

- Common and preferred stock that are listed in the **List of Legal Investments.**
- Investment Funds that are listed in the **List of Legal Investments.**
- All other items not separately identified here that are listed in the **List of Legal Investments.**
- **Risk Tolerance**

- **Credit Risk**

- Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations.

The Town will manage credit risk several ways. There will be no limit to the amount of United States Treasury and United States Government Agency obligations.

In regards to other investments the Town will only purchase investment grade securities with a high concentration in securities rated A or better. The Town may invest in the Massachusetts Municipal Depository Trust (MMDT) with no limit to the amount of funds placed in the fund.

The Town may place funds in banking institutions as stated in the Section C of this IPS.

- **Custodial Risk**

The custodial credit risk for deposits is the risk that, in the event of the failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. The custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, a government will not be able to recover the value of investment or collateral securities that are in the possession of an outside party.

The Town will review the financial institution's financial statements and the background of the sales representative. The intent of this qualification is to limit the Town's exposure to only those institutions with a proven financial strength, Capital adequacy of the firm, and overall affirmative reputation in the municipal industry.

Further, all securities not held directly by the Town, will be held in the Town's name and tax identification number by a third party custodian approved by the Treasurer and evidenced by safekeeping receipts showing individual CUSIP numbers for each security.

- **Concentration of Credit Risk**

- "Concentration of credit risk" is the risk of loss attributed to the magnitude of a government's investment in a single issuer.

The Town will minimize Concentration of Credit Risk by diversifying the investment portfolio so that the impact of potential losses from any one type of security or issuer will be minimized.

- **Interest Rate Risk**

- “Interest rate risk” is the risk that changes in interest rates will adversely affect the fair value of an investment.

The Town will manage interest rate risk by managing duration in the account.

- **Foreign Currency Risk**

- “Foreign currency risk” is the risk that changes in foreign monetary exchange rates will adversely affect the fair value of an investment or a deposit.

The Town will not invest in any instrument exposed to foreign currency risk.

### **E. Standards of Care**

The standard of prudence to be used by the Treasurer shall be the “Prudent Person” standard and shall be applied in the context of managing an overall portfolio. The Treasurer acting in accordance with written procedures and this IPS, and exercising reasonable due diligence, shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided the purchases and sale of securities is carried out in accordance with the terms of this IPS.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs; not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived.

In addition this section would also apply to MGL Chapter 44, § 55A which refers to the liability of the Treasurer for losses due to bankruptcy.

### **F. Diversification**

Diversification should be interpreted in two ways: in terms of maturity as well as instrument type and issuer. The diversification concept should include prohibition against over concentration of maturities, as well as concentration in a specific institution, with the exception of U.S. Treasury obligations or investments fully collateralized by U.S. Treasuries or agencies.

### **G. Ethics**

The Treasurer and Assistant Treasurer shall refrain from any personal activity that may conflict with the proper execution of the investment program or which could impair or appear to impair ability to make impartial investment decisions. The Treasurer shall disclose to the Town Manager any material financial interest in financial institutions that do business with the town. They shall also disclose any large personal financial investment positions or loans that could be related to the performance of the town's investments.

### **H. Relationship with Financial Institutions**

Financial institutions should be selected first and foremost with regard to their financial soundness and stability. The Town subscribes to Veribanc a recognized bank rating service. Brokers should be recognized, reputable dealers.

The Treasurer shall require any brokerage houses and broker/dealers, wishing to do business with the Town, to supply the following information to the Treasurer:

- Annual financial statements
- If acting as a Registered Investment Adviser, yearly copy of their most recent Form ADV
- Proof of FINRA membership
- A statement that the Advisor has read the municipality's IPS and will comply with it on an annual basis

## **I. Reporting Requirements**

On a quarterly basis, a report containing the following information will be prepared by the Treasurer and distributed to the Town Manager, and/or Finance Committee, as appropriate. The quarterly report will include the following information, as a minimum requirement:

- A listing of the individual accounts and individual securities held at the end of the reporting period.
- A listing of the short-term investment portfolio by security type and maturity to ensure compliance with the diversification and maturity guidelines established in the "Diversification" section of this IPS.
- A summary of the income earned on a monthly basis and year-to-date basis shall be reported.
- The Treasurer shall include in the report a brief statement of general market and economic conditions and other factors that may affect the Town's cash position.
- The report should demonstrate the degree of compliance with the tenets set forth in the IPS.

## **J. Legal References**

Massachusetts General Law Chapter 44, § 54

Massachusetts General Law Chapter 44, § 55A

Massachusetts General Law Chapter 44, § 55B

Trust Funds may be co-mingled and invested in any instruments allowed by the Commonwealth of Massachusetts list of Legal Investments Legal issued by the Banking Commissioner each July. Each trust fund must be accounted for separately. Chapter 44 § 54 sets forth that Treasurers may invest in instruments that are legal for savings banks. This list of investments is included in the Commonwealth of Massachusetts List of Legal Investments, Chapter 167 § 15A.

## **Article IV. Regulatory**

### **Section 4.01 Liquor License**

In issuing the regulations, the License Commission is setting forth the expectations of the citizens of Lunenburg as to the conduct of the Town's liquor license holders. A significant objective of the regulations is the prevention of violations. In familiarizing themselves with these regulations, license holders will realize that much is expected of them. The License Commission believes that violations will be prevented because these regulations will at last require license holders to operate in accordance with a clearly defined, higher standard.

#### **1. Identification of the Town of Lunenburg Licensing Authority**

- a. The Licensing Authority for the Town of Lunenburg shall consist of the Board of Selectmen.

#### **2. Scope of and Statutory Basis for Promulgation of Rules**

- a. The statutory basis for the promulgation of these rules is set forth within the applicable sections of G.L. c. 138. Each reference to a statute shall include any amendment thereto.
- b. These rules are supplementary to any statutory requirements and to the rules of the Alcoholic Beverages Control Commission.

#### **3. Definitions**

- a. Whenever the word **"Licensee"** is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the premises.
- b. Whenever the word **"License"** is used herein it shall mean a revocable privilege granted by the licensing authority.
- c. Whenever the word **"Licensing Authority"** or **"Authority"** are used herein it shall mean those groups having legal authority to grant licenses and/or regulate the operation of the licensed premises. The specific licensing authority for the Town of Lunenburg shall be the Board of Selectmen..

- d. Whenever the word “**Patron**” is used herein it shall mean a customer who is legally on the licensed premises.
- e. Whenever the word “**Premises**” is used herein it shall mean all land and buildings associated with the operation of the license.
- f. Whenever the phrase “**Rules and Regulations**” is used herein it shall mean a compilation of regulations, ordinances and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

## **SECTION ONE: GENERAL LICENSING RULES FOR LICENSEES**

### **1.0 Applicability of Rules and Regulations**

- a. This section shall apply to all Town licensees, unless specifically provided otherwise.

#### **1.01 Availability of Rules and Regulations**

- a. All licensees of the Licensing Authority for the Town shall ensure that a copy of the Rules and Regulations of the Authority is kept on the premises at all times and is available for inspection upon request by a member of the public or an agent of the Authority.
- b. The licensee is responsible for ensuring that all employees who work in the public areas of the premises read the Rules and Regulations of the Licensing Authority and comply with all rules and laws.

#### **1.02 Posting and Signs**

- a. Licenses issued by the Authority shall be posted in a conspicuous place easily seen by the public where they can be read without difficulty and without the assistance of employees at the premises.
- b. All other licenses, permits and certificates affecting the licensed premises shall be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the license issued by the Authority.
- c. No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to section 1.03 (“Admissions”) below.

#### **1.03 Admissions to the Premises**

- a. No licensee shall permit any rule, policy or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sexual orientation, or ancestry, physical or mental disability, relative to the admission or treatment of persons from the general public or employees at the licensed premises; provided however, that premises licensed pursuant to section 12 of the General Laws, Chapter 138, may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein; provided further that private club licensees shall not discriminate, as aforesaid, with regard to guests at the licensed premises or with regard to who may be invited to the premises as guests.
- b. No licensee shall institute dress requirements of any kind except according to the following rules:
  - 1. A sign shall be posted at the entrance stating dress requirements or dress restrictions with specificity that may also include restrictions to footwear. (Examples: “Jackets required”, “Ties and jackets required”, “Shirts with collars required, no sneakers”).
  - 2. No signs shall be posted which state that, “Proper dress required” or which otherwise announce a dress policy without stating specifically, item by item, what dress is required or what dress is prohibited.
- c. No licensee shall institute privileged entrance requirements of any kind except according to the following rules:
  - 1. A licensee may issue special passes.



2. The special passes shall state the calendar year on the face of the pass.
  3. The special pass shall not entitle the pass holder to free drinks or to a discount on drinks.
  4. The licensee shall keep a list of the names and addresses of all pass holders and must have such a list available if requested by the Authority.
  5. The licensee is responsible for ensuring that persons are picked to be pass holders on a rational basis and not on any basis that is discriminatory in violation of law or these regulations.
- d. No licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of the charge; provided however, that no such licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge. Such cover charge shall not be collected in advance of gaining entrance to the licensed premises and can only be charged upon written or printed receipt, permanently recorded and numbered seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period of not less than two years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.
  - e. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirements shall be imposed upon any customer of a G.L. c. 138 § 12 licensee.
  - f. A licensee who charges a minimum charge for the purchase of food and/or nonalcoholic beverages shall include a specific statement in a posting stating that there is no minimum charge for alcoholic beverages. Such minimum charge, for food and/or non-alcoholic beverages shall not be collected in advance of gaining entrance to the premises. No licensee shall impose a minimum charge for food and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to, or greater than, the posted minimum charge for food and/or non-alcoholic beverages.
  - g. Licensees shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.
  - h. Licensees shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Department and stated on their Certificate of Occupancy
  - i. Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises shall obey the following rules:
    1. Persons who wait inside the premises shall be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the premises shall not exceed the number of persons allowed as standees.
    2. Persons who are permitted to wait in line outside the premises shall be supervised by an employee of the licensed premises. Such employees shall stand outside with the line during all times when the line exceeds ten persons and shall announce no further admissions to the premises if persons in the line are being loud and disorderly or if the line is blocking the sidewalk or is of a size that could reasonably be expected to cause noise or other problems for residents of the area or for passersby. To the extent that lines in front of a licensed premise become the subject of public complaints the licensee shall have been deemed to be inviting a public nuisance and shall be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.
  - j. Licensees shall not lock the front door of the premises until the last patron has exited from the premises.

- k. Licensees shall not allow any patron or any guest or any employee who is not working that shift to enter the premises after the closing hour posted on the license or prior to the opening hour posted on the license.
- l. M.G.L. Chapter 138 §12 club license holder will be considered in violation of these regulations for having an “open door” policy or serving non-members. The License Commission Regulations allow the following: Clubs may serve alcoholic beverages only to members of the Club. However, one (1) guest of a member may be served alcoholic beverages after he/she has been introduced by the member as a guest. This introduction will be in the form of a guest book noting the member’s name, guest’s name, date and time of introduction. Should the member at any time leave the premises the guest may no longer be served and the guest must vacate the premises. The guest book must be available at all times for inspection by the License Commission and/or its agents.

#### **1.04 Hours of Operation**

- a. The hours of operation shall be restricted to those set by the Licensing Authority and stated on the face of the license. No patrons shall be on the premises before the official opening hours or after the official closing hours. Last call is a minimum of thirty (30) minutes prior to closing time. Customers must be up and out once the closing hour of the licensed premises has been reached. No drinks shall be consumed after closing hours.
- b. The rules for employees on premises after closing hours are as follows: owners and employees must be off the premises no later than sixty (60) minutes after the official closing hour, provided however, that such owners and employees or other hired personnel may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for the premises, or preparing food for the next day’s business or opening or closing the business in an orderly manner.
- c. Licensees shall ensure that their patrons leave the premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner should hire security personnel to police the leave-taking of the patrons at closing time.

#### **1.05 Physical Premises**

- a. The licensed premises shall conform to the floor plan approved by the Authority with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, bar stools, dance floors or areas, railing partitions, and other barriers at the premises. Any change in the floor plan or any renovations of any kind shall not be made without notification to the Authority, approval of the Authority and approval by the Alcoholic Beverages Control Commission. This includes substantial changes in the arrangement of moveable furniture.
- b. No licensee shall have two occupancies listed on their Certificate of Occupancy (i.e. one occupancy with tables and chairs and one occupancy without tables and chairs). The licensed premises shall conform to the floor plans approved by the Authority as stated above in Section A.
- c. All premises covered by the license shall be kept in a clean and sanitary condition.
- d. No outside area shall be used as a gathering place for patrons unless approved by the Authority. Any extension of premises for outdoor patio seating must be approved by the Authority and the Alcoholic Beverages Control Commission and must conform to the guidelines established by the Alcoholic Beverages Control Commission.
- e. The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Authority to make observations at the premises without the need to identify themselves or the need to seek assistance.
- f. The capacity set for the premises by the Building Commissioner shall be the maximum potential capacity for the premises.
- g. Licensees shall not invite the members of the public to private areas of the premises which are approved by the Authority for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners and employees of the licensed premises shall be in these areas.

- h. No advertising matter, screen, curtain or other obstruction which in the opinion of the License Authority, Liquor Officer or its Agents, prevents a clear view of the interior of the premises shall be maintained in or on any window or door thereof after the Authority has ordered the removal of such obstruction.
- i. The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted "Exit" signs, as same may be mandated by the Building Commissioner or by the Fire Department. A copy of the Certificate of Occupancy signed by the Building Commissioner and Fire Department shall be posted in a visible location at all times.

#### **1.06 Business Arrangements of Licensees**

- a. Person or entities obtaining or renewing a license shall demonstrate proof of a legal right to the licensed premises for term of the license. Such proof shall include ownership papers or a tenancy document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract shall be known to the Authority and the terms of such agreements or contracts shall be made known to the Authority.
- b. No licensee shall hire any employee or contract for goods or services in any name other than that of the licensee, nor shall the licensee pay for any such employment, goods, or services by any means other than its own cash or bank accounts in its own name. Cash transactions shall be recorded in a manner suitable for review by the Authority. Such records shall be kept for a period of three years.
- c. No licensee shall permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons properly approved of by the Authority and the salaried employees of such persons.
- d. No licensee shall permit any person to work at the licensed premises or to hold themselves out as a person in a position of authority at the premises except for those persons who are owners and officers or who are salaried employees for whom payroll records are available. No licensee shall pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Authority.
- e. No licensee shall pay a landlord or creditor of any kind a percentage of the profits of the business except upon complete disclosure to the Authority and the receipt of the Authority's approval.
- f. No licensee shall lease out any part of the business without the approval of the Authority. No licensee shall lease out the food or beverage service without the approval of the Authority.
- g. No licensee shall enter into an agreement with an independent contractor to provide beverages or food or entertainment or management at the premises without the approval of the Authority.
- h. No licensee shall pledge the stock in the licensed business or the license itself without the approval of the Authority pursuant to M.G.L. Chapter 138 §15A. No licensee shall pledge a license without obtaining the approval of the Authority pursuant to M.G.L. Chapter 138, §15A. The approval of a pledge does not give the pledgee the authority to operate the business.
- i. No licensee shall take a loan secured by any direct or indirect interest in the licensed business without the approval of the Authority.
- j. No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.
- k. The Manager in a licensed premises shall not be changed until the Authority and the Alcoholic Beverages Control Commission have approved such change.

- l. Any licensee intending to close its place of business shall notify the Authority in writing and obtain permission before such closing. The request shall state the reason for such closing and identify the length of the closing.
- m. Assignment of the stock of corporate licensees for purposes of collateralizing loans or notes, etc., gives no right to the assignee to conduct the business of the licensee. Licensees shall immediately notify the Authority when the assignee forecloses under such assignment of stock or when other proceedings are brought which affect the economic and financial rights and abilities of the licensee.
- n. Licensees shall enter into no agreement or understanding which sets a minimum requirement for gross sales of food and beverages at the premises.
- o. Licensees shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same appears on the license certificate issued by the Authority or unless written permission is first obtained from the Authority. The use of any unauthorized name on the books, records, stationary or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Authority.
- p. Licensees are responsible for maintaining a legal right to access to, and control of, the premises which is covered by the license. Failure to have a legal right to the named licensed premises shall result in the revocation or non-renewal of the license.
- q. Licenses for automatic amusement devices shall be granted only to the licensee on whose premises the machine is to be operated, and not to the distributor and/or vendor. It is, therefore, the responsibility of the licensee to apply for, and obtain, such license and not to accept any delivery of a machine that has not been licensed. If the License Commission determines that there is an unlicensed amusement device on a premises it shall constitute cause to suspend or revoke the license for any other such machine that may be on said premises. It shall also be cause for a hearing to show cause why the establishment's liquor license should not be subject to discipline.  
  
Acceptance of an unlicensed machine from a distributor and/or vendor is the licensee's responsibility, and every licensee must be certain to apply for and receive a license before accepting delivery of a machine.
- r. Annually, at the time of the license renewal, the licensee shall submit to the License Commission a listing of the names and addresses of all its directors, officers and employees as of January first. Each licensee shall also maintain a current list during the year, which shall be available for inspection on the premises at all times.

#### **1.07 Alcoholic Beverage Sales and Laws**

- a. No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- b. All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- c. No licensee or employee or agent or a licensee shall:
  1. offer or deliver any free drinks to any person or group of persons;
  2. deliver more than two drinks to one person at one time;
  3. sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
  4. sell, offer to sell, or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;

5. sell, offer to sell, or deliver drinks to any person or group of persons on any one day at prices less than those charged to the general public on that day, except at private functions not open to the public;
  6. sell, offer to sell, or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time; increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
  7. encourage or permit, on the licensed premises, any game or contest which involves drinking or the award of drinks as prizes;
  8. advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- d. Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food or entertainment at any time; or to prohibit licensees from including a drink as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person; or to prohibit those licensed under Chapter 138, § 15, from offering free wine tastings; or to prohibit those licensed under MGL Chapter 38, § 12 from offering room services to registered guests.
  - e. Licensees shall not permit alcoholic beverages to be brought on the licensed premises by patrons or employees.
  - f. Licensees shall be responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron. Licensees who do not have the ability to keep track of the drinking activity of minors at the premises shall exclude minors from coming onto the premises in order to meet the burden of ensuring that there is no underage drinking at the premises. Sufficient security personnel shall be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors.
  - g. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in Section 24 of General Laws Chapter 90. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container. Said copies shall be posted conspicuously in said establishments. Said copies are available at the Alcoholic Beverages Control Commission.
  - h. Food service shall be available in all areas of the licensed premises where alcoholic beverages are served, this to include dining areas and lounge areas. This does not include any area approved as a waiting area by the Licensing Authority.

#### **1.08 Environs of Licensed Premises**

- a. It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee shall be accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.
- b. No licensee may have upon the premises any automatic amusement machine unless same has been approved and separately licensed by the Town of Lunenburg. Types of machines and location of machines on the premises must be approved. The Licensee shall make application, not the distributor.
- c. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance. Action to be taken by the licensee shall include: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) promptly notifying the police if loiterers refuse to disperse; (4) hiring a security guard or stationing a security employee at the front door to disperse loiterers; (5) refusing to allow patrons to walk in and out of the premises at short intervals; (6) maintaining order in lines of patrons waiting outside to get in; (7)

announcing that no further patrons will be allowed into the premises if lines become too long or disorderly or loud.

- d. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps shall include: (1) having an employee stationed at the door to watch patrons as they leave; (2) refusing to serve beer in bottles; (3) refusing to serve alcoholic beverages in disposable cups. When patrons are observed leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages to the Authority's agents, it shall be presumed that the vessels contain alcoholic beverages.
- e. When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Authority adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for police attention, the licensee shall be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.
- f. At all times the public areas of the licensed premises must be continuously illuminated to the degree of not less than one foot candle (measured 30 inches from the floor) except those portions of the room under furniture.
- g. No physical additions, alterations or renovations shall be made unless a plan is submitted and approved by the Authority and the Alcoholic Beverages Control Commission.
- h. No licensee shall keep for sale, store or sell alcoholic beverages in any part of the premises not specified on this license.
- i. Except for package stores, all alcoholic beverages sold must be opened and consumed on the licensed premises.
- j. All State and Local Laws and Regulations apply to the licensed premises whether during regular hours, after hours or private functions.

#### **1.09 Inspections and Investigations**

- a. The licensed premises shall be subject to inspection by the members of the Licensing Authority and its duly authorized agents. Any hindrance or delay of such inspection caused by an employee of the licensee shall be cause for action against the license. It shall be the responsibility of the licensee to ensure that procedures are in place, be it posting a doorman or otherwise, to allow Police and authorized agents of the Authority, immediate entrance into the premises at any time employees are on the premises. Any delay in providing such access shall be cause for action against the license.
- b. Licensees shall maintain a current list of all their employees and shall have it available at all times for inspection upon the request of an authorized agent of the Authority. Licensees shall mail this list to the Lunenburg License Commission on June 1st of every year and again as part of the end of year license renewal packet. Licensees who contract with entertainment entities to provide entertainers must maintain a current list of the names of such entertainers and said entertainers shall be held to the same rules as other employees at the premises.
- c. No device or electronic equipment shall be utilized by a licensed premise for the purpose of signaling employees that agents of the Licensing Authority are present.
- d. All complaints and reports shall continue in force until they have been reviewed and disposed of by the Licensing Authority.
- e. All Police Officers, regardless of rank, are hereby designated as authorized agents of the Licensing Authority.

#### **1.10 Standards of Conduct on the Premises**

- a. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.
- b. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks or genitals of any other person.
- c. No alcoholic beverages shall be sold to anyone under twenty-one (21) years of age. No service of alcoholic, wine/malt beverages shall be made to anyone under twenty-one (21) years of age.
- d. No manager or employee shall consume any alcoholic beverages while on the licensed premises while on duty or after the official closing hour.
- e. No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverages.

#### **1.11 Illegal Activity on the Licensed Premises**

- a. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts shall include:
  - 1. Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities;
  - 2. Paying attention to activities on the premises of known drug users, drug dealers, prostitutes or others who are known to have been convicted of crimes which may be conducted at a licensed premises;
  - 3. Monitoring of activities of person who talk about weapons or who appear to be hiding a weapon;
  - 4. Calling for police assistance as necessary to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information.
  - 5. Hiring security personnel to deal with chronic unlawful activity at the premises such as prostitution, gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.
- b. There shall be no disorder or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.
- c. No licensee shall allow any disturbance, disorder or illegality on the licensed premises. The license holder shall be responsible therefore, whether present or not.

#### **1.12 Injuries to Persons at the Premises**

- a. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows from an unruly patron. In all other circumstances employees and security personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive and they are unable to convince the patron to leave the premises voluntarily.
- b. Licensees shall call the police and an ambulance and take all other reasonable steps to assist patrons or persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee

#### **1.13 Other causes for Revocation, Suspension and Modification**

- a. Any license issued pursuant to General Laws Chapter 138 may be modified, suspended or revoked for any of the following causes:

1. Violation by the licensee of any provision of the relevant General Laws of the Commonwealth, of the regulations of the Alcoholic Beverages Control Commission or of the regulations of the Licensing Authority.
2. Fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for renewal thereof or in connection with an application for the removal of the licensed premises or the alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Authority in connection with such petition, request, or application affecting the rights of the licensee;
3. Failure to operate the premises covered by the license without prior approval of the Licensing Authority;
4. Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any rule or regulation of the Licensing Authority;
5. Licensees shall not give or offer any money or any article of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Authority either as a gratuity or for any service;
6. Licensees may not fail to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Authority or upon which any application or petition relating to the premises was granted by the Authority. It shall be the duty of the licensee to ensure that all appropriate personnel at the licensed premises are familiar with the rules and regulations of the Authority and with any conditions on the license.
7. A license may be suspended or modified or revoked for the refusal by any licensee and, if a corporation, by a manager, officer, or director thereof to appear at an inquiry or hearing held by the Authority with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such person to continue to hold a license.
8. Licensees shall properly serve suspension and modification orders.

#### **1.14 Liquor License Sentencing Guidelines**

- a. Licensees in violation of the applicable laws of the Commonwealth, regulations of the Alcoholic Beverages Control Commission and/or these regulations may be subject to the following range of discipline:
  - i. First offense; warning to seven day suspension.
  - ii. Second offense; warning to twenty-one day suspension.
  - iii. Third offense: warning to revocation.
- b. Only offenses which have occurred within the two years preceding the date of violation shall be used in calculating the number of offenses for purposes of the sentencing guidelines.
- c. The sentencing guidelines are only a guide. The Licensing Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines.
- d. The sentencing guidelines shall not be construed so as to limit the Licensing Authority's authority to consider alternative dispositions, or further conditions on a license, or even alternate penalties (e.g. roll back of operating hours).

#### **1.15 Service of Liquor License Suspension Orders**

- a. When the Authority suspends the license or licenses of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "No alcohol served per order of the License Commission". Such order shall be publicly displayed by the licensee in the following manner. If there is a door opening from the street into the licensed premises and a window facing the street upon which such door opens,



such order shall be displayed in such window so that it may readily be seen from the street. If the licensed premises are otherwise located, such order shall be affixed to the door of the entrance to the premises and displayed in such a way that it may be readily seen from the street.

- b. Suspension orders of the Authority, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or obliteration of the order of suspension or the failure to maintain the order of suspension in the manner and place required prior to the expiration of the suspension period shall be deemed the act of the licensee and shall be cause for further suspension, modification or revocation of the license.
- c. Suspension periods shall not be used as a time to do renovations at the licensed premises unless such renovations have previously been approved by the Authority.
- d. Upon receiving a notice of suspension or revocation, the licensee will hand deliver the license to the Lunenburg Selectmen's Office, 17 Main Street, Town Hall, Lunenburg, MA 01462. The license will be given to the Administrative Assistant no later than 9:00 a.m. on the day of the suspension or revocation. The license may be picked up at 9:00 a.m. the day following the suspension or revocation. (example: XYZ license has been suspended 10/01/09 thru 10/05/09 for violation of XXXX. License will be dropped off by the licensee by 9:00 a.m. on October 1, 2009 and picked up on October 6, 2009 at 9:00 a.m.

#### **1.16 Permission to Close Premises Required**

- a. Any Licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the Licensing Authority in writing before such closing stating the reason and length of such closing and obtain approval. Failure to provide such notice may result in the suspension or revocation of the license.
- b. The restriction in (a) shall not apply to a closing due to an act of God, natural disaster, illness or some other business problem for which request had been made to the Authority and approval granted.

#### **1.17 Bankruptcy and Court Proceedings**

- a. The licensee shall immediately notify, in writing, the Licensing Authority of any proceedings brought by or against the licensee under the bankruptcy laws or of any other court proceedings which may affect the status of the license.

#### **1.18 Management**

- a. Each corporate licensee must appoint a manager by a properly authorized and executed delegation.
- b. The responsibilities of every license holder and any manager shall be as follows:
  - 1. To obey all statutes of the Commonwealth, rules of the Alcoholic Beverages Control Commission, Rules and Regulations of the Licensing Authority;
  - 2. To promptly notify the police of any disturbance or illegal activity on the licensed premises of which he/she becomes aware;
  - 3. As to corporate licensees, to sign the annual application for renewal of license, unless unavailable;
  - 4. To cooperate with authorized agents of the Licensing Authority, including, but no limited to, any police officer, in their investigation or inspection of the licensed premises.
- c. Any such notice sent to the manager as named in the records of the Licensing Authority or the owner at the address of the licensed premises shall constitute valid legal notice to the licensee.
- d. The licensee shall not change managers, change corporate officers, sell or transfer corporate stock, pledge corporate stock or the liquor license as security, or accept a loan or credit from another licensee, without first

obtaining the approval of the Authority and the Alcoholic Beverages Control Commission. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Authority.

- e. The Manager, or their designee, must be on the premises at least fifty (50) percent of the time the premises are open. The Manager shall have total responsibility for the proper operation of the licensed premises, whether present or not. No appointment of a Manager shall be effective unless and until approved by the License Commission. If a Manager leaves the employ of the license holder, the license holder shall notify the Commission immediately and shall promptly file a Change of Manager application. No change of manager will be effective until approved by the Commission and the Alcoholic Beverages Control Commission.

#### **1.19 Service Training**

- a. An employee training program on the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated shall be provided by the licensee. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the Authority as part of the original or renewal application materials and maintained on the premises at all times.
- b. A signed certificate of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.
- c. All employees, including bouncers and doormen, shall obtain server training within thirty (30) days of commencing employment. The server training certificate shall be sent to the License Commission within seven (7) days of issuance.
- d. Upon a finding by the Authority of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the licensee shall be retrained forthwith and receive a new server training certification.
- e. The training and certification referenced in Section 1.19 shall be pursuant to a training program approved by the Authority (e.g. TIPS or equivalent).

#### **1.20 ABCC Compliance**

- a. Compliance check guidelines are applicable to retail licenses for the sale of alcoholic beverages to be drunk on the premises, called "pouring licenses", fall into five types: hotel, restaurant, tavern, club, and general-on-premise. These are further divided into four categories based on the category of alcoholic permitted to be served; all-alcoholic, wine only, malt only, or wine and malt and in accordance with the ABCC rules and regulations.

#### **1.21 Applications and Fees**

- a. Whenever a alcoholic beverage license becomes available in a category for which all the licenses allotted the Town had previously been properly assigned, the Licensing Authority shall publish, on one occasion, in a local newspaper, on its public bulletin board and on its website a notice that such license has become available. The Licensing Authority will not accept any new applications for this license until 30 days after such a notification has been made, published and posted.
- b. All license applications must be "COMPLETE" in order to be processed by the Office of the License Commission for submission to the License Commissioners for action. While the Office of the Commission will assist any individual with the filing of an application, it is not the responsibility of the office staff to fill out and complete an application and forms required.

- c. Filing fees must be paid at such time as an application is filed at the Office of the License Commission. Fees are to be made payable to the Town of Lunenburg. Filing fees are not returnable once an application has been accepted by the Office of the License Commission.
- d. Annual license fees must be paid prior to the issuance of any license. License fees may not be prorated and are not refundable.
- e. Should a fee payment be non-negotiable (i.e. “bounce”), such event shall be deemed to be a violation of these regulations.

At no time will the Authority accept an application for an alcohol beverage license under any circumstances except as prescribed in this section.

## **Section 4.02 Bring Your Own Bottle**

### *“Carry-In” Intoxicating Beverages*

#### **Definitions**

For purposes of this Policy, the following terms shall have the following meanings:

“Board” shall mean the Board of Selectmen acting as the Town’s local licensing authority for common victuallers under MGL Chapter 140.

“Policy” shall mean this Policy applicable to Carry-In Permit for intoxicating beverages to restaurants operated by common victuallers.

“Carry-In Permit” shall mean permission granted by the Board to a common victualler under this Policy to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler.

“Common Victualler” shall mean a person duly licensed under the provisions of M.G.L. Chapter 140 to conduct a restaurant.

“Intoxicating Beverages” shall mean intoxicating beverages as defined in M.G.L. Chapter 138, §1.

“Restaurant” shall mean a restaurant as defined in M.G.L. Chapter 138, §1.

“TIPS” shall mean Training for Intervention Procedures.

#### **2. General Rules**

No common victualler shall permit intoxicating beverages to be consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler except pursuant to a valid license issued under the provisions of M.G.L. Chapter 138, or pursuant to and in strict conformity with this Policy and regulations adopted by the Board pursuant to this Policy.

#### **3. Carry-In Permit for Intoxicating Beverages**

The Board may grant Carry-In Permit to a common victualler to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler provided that:

- a. The applicant for such Carry-In Permit shall not be less than twenty-one years of age and must be a person of good character in the Town.

b. No Carry-In Permit shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.

c. No Carry-In Permit shall be issued to any fast food restaurant, which is part of a restaurant chain or franchise.

d. No Carry-In Permit shall be issued to any applicant who has a license for the restaurant issued under the provisions of M.G.L. Chapter 138.

e. No Carry-In Permit shall be issued to any applicant whose license for the restaurant issued under the provisions of M.G.L. Chapter 138 has been suspended or revoked, or to any person, firm, corporation, association or other combination of persons affiliated, directly or indirectly, with such licensee through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever.

f. Before approving or renewing Carry-In Permit, the Board may cause an examination or examinations to be made of the premises of the applicant or may otherwise review such evidence as the Board deems credible to determine whether such premises comply in all respects with the appropriate definitions of section one and whether activities conducted on the premises comply in all respects with the provisions of this Policy. The Board may deny Carry-In Permit or renewal of Carry-In Permit to any applicant where the premises and/or the activities conducted on the premises do not in the Board's judgment so comply.

g. The Board may refuse to grant Carry-In Permit in certain geographical areas of the Town, where the character of the neighborhood may warrant such refusal or when not allowed as a permitted use under a Special Permit or Zoning Bylaw.

h. The common victualler shall comply with any and all conditions imposed by the Board with respect to such Carry-In Permit, including without limitation conditions with respect to hours and days during which such intoxicating beverages may be consumed in the restaurant and the insurance which shall be carried with respect to operation of the restaurant having Carry-In Permit.

i. Carry-In Permit under this policy shall be not be transferable between persons or locations except with the advance permission of the Board and then only if consistent with the public interest. Carry-In Permit shall be revocable as provided herein.

j. Approval of Carry-In Permit under this policy shall not create any property rights; rather such permission is authorized solely to serve the public need and in such a manner as to protect the common good.

k. Every approval of Carry-In Permit under the provisions of this policy shall expire on December thirty-first of the year of issue, subject, however, to earlier revocation or cancellation within its term.

#### **4. Obligations of A Common Victualler Granted Carry-In Permit for Intoxicating Beverages.**

Any common victualler approved for Carry-In Permit shall at all times comply with the following requirements: (it is recommended that the Common Victualler attends a Training for Intervention Procedures (TIPS)) Program and acknowledge that obtaining TIPS certification is their responsibility.

a. The common victualler shall not permit any person under the age of twenty-one to consume intoxicating beverages in the restaurant. Any person bringing or accompanying any person bringing intoxicating beverages into a restaurant having Carry-In Permit shall, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, state his name, age, and address, and produce a valid identification document. The common victualler shall verify by appropriate picture identification that any patrons and customers consuming such intoxicating beverages in the restaurant are twenty-one years of age or older. Any common victualler, or agent or employee thereof, under this policy who reasonably relies on a valid operator's license issued by the Registry of Motor Vehicles pursuant to M.G.L. Chapter 90, § 8, a valid liquor purchase identification card issued pursuant to M.G.L. Chapter 138, § 34B, a valid passport issued by the United States government or by the government of a foreign country recognized by the United States government, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation

of its Carry-In Permit or common victualler license by virtue of that individual's under-age drinking in the restaurant.

b. The common victualler shall only allow intoxicating beverages to be consumed in the dining room or dining rooms of the restaurant, and is responsible for sealing and wrapping the open container before the patron exits the establishment.

c. The common victualler shall ensure that intoxicating beverages are not consumed in the restaurant by customers or patrons so as to cause or contribute to their becoming unruly and/or a danger to themselves or others either in the restaurant or on the public ways upon leaving the restaurant. The common victualler is hereby authorized to confiscate all remaining intoxicating beverages from any patrons or customers who appear to present a danger of becoming unruly and/or becoming a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages. Any customers or patrons of a restaurant with Carry-In Permit shall be deemed at all times to consent to such confiscation if deemed necessary by the common victualler.

d. The common victualler shall immediately report to the Lunenburg Police Department any situation in which customers or patrons consuming alcohol in the restaurant appear to present a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages.

## **5. Regulations**

The Board may promulgate rules and regulations consistent with the provisions of this policy for clarifying, carrying out, enforcing, implementing and preventing violations of, all and any of its provisions. Without limitation, the Board may make regulations (a) limiting the number of approvals for Carry-In Permit to be issued under this Policy, (b) determining the fee to be charged for Carry-In Permit under this policy, which fee shall not be more than double the license fee for a common victualler license, (c) determining the method and frequency of inspection of the premises and method of carrying on the business of any common victualler having Carry-In Permit hereunder, and (d) for the proper and orderly conduct of any business having Carry-In Permit hereunder.

## **6. Penalties for Violation**

Violation by a common victualler of this policy or any regulation promulgated by the Board pursuant to this policy shall be punishable by a fine of one hundred dollars for the first offense; any further violations will result in a fine of three hundred dollars (\$300) per offense. Each day a violation continues shall be considered a separate offense.

Any person bringing intoxicating beverages into or consuming intoxicating beverages in a restaurant having Carry-In Permit shall be punished by a fine of three hundred dollars per offense for any of the following violations of this policy: (a) refusing, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, to state his name, age, and address, and produce a valid identification document, (b) stating in response to such request a false name, age, or address, including a name or address which is not his name or address in ordinary use, (c) producing or displaying in response to such request a false or fraudulent identification document, (d) refusing to allow the common victualler to confiscate remaining intoxicating beverages under Section 4(c), or (e) acting in a manner dangerous to himself or others in the restaurant. Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

## **7. Suspension, etc., of Carry-In Permit**

The Board may suspend, modify, cancel, deny, refuse to renew, or revoke Carry-In Permit for any violation of this policy or any regulation promulgated by the Board pursuant to this policy. The Board may suspend, modify, cancel, deny, refuse to renew, or revoke a common victualler license in the event a common victualler has committed multiple, willful, or repeated violations of this policy or any regulation promulgated by the Board pursuant to this policy. In case of suspension, modification, cancellation, denial, refusal to renew, or revocation of any Carry-In Permit or any license as aforesaid, no abatement or refund of any part of the fee paid therefor shall be made.

## **8. Severability**

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

**9. Effective Date** This policy shall take effect March 10, 2009.

## **Section 4.03 One Day Liquor License**

The following types of organizations and individuals are eligible for one-day alcoholic beverage licenses under this policy. Other organizations or individuals may submit applications for consideration.

- Civic or municipal organizations
- Commercial establishments
- Fraternal organizations
- Non-profit organizations
- Non-profit unincorporated associations
- Individuals holding social events not held at a private residence
- Unincorporated groups or organizations not engaged in the sale for profit of alcoholic beverages.
- Service clubs
- Veteran's organizations

In accordance with MGL Chapter 138, Section 14 and 14A, a one day all alcoholic license may only be issued to a non-profit organization.

### **A. Criteria for Approval**

The following matters will be taken into account in approving one-day licenses:

1. Admission Age: The Board will not deny a one-day license solely because individuals under the legal drinking age shall be present at a function, but will require that sufficient trained servers are present to assure compliance with the laws governing the sale or furnishing of alcoholic beverages to such persons.
2. Frequency: The Board considers that one-day licenses are to be issued primarily to applicants sponsoring functions that are not held more than once annually. Except for applicants that are in the business of catering or accommodating individual functions, one-day licenses are not intended as an alternative to an annual license.
3. Acceptance of Conditions: Acceptance of a one-day license under this policy will be deemed to be an acceptance of the conditions of the license and an agreement with the Town of Lunenburg to be bound thereby.

### **B. Conditions to be Contained in One-Day Licenses**

1. Certification of Service Providers: All persons engaged in furnishing alcoholic beverages at a licensed function, whether by sale or without charge, including servers, must be certified as having completed an approved alcoholic beverage training program and have evidence of such certification in their possession.
2. Number of Persons on Premises: The number of persons may not exceed the occupancy limits allowed by law for the premises on which the license will be exercised.
3. Police Details: The number of officers, if any, and the hours during which a police detail will be required within the licensed premises and, if required, for orderly parking and traffic control will be recommended by the Police Department. Generally those hours will include the entire duration of the function, including after service hours. The factors to be considered include the location of the premises, availability of on-site parking, the number of persons estimated to be in attendance and the time and duration of the function.

### **C. Additional Provisions**

1. Departmental Approvals: The Board of Health, Fire Department, Police Department and the Building Inspection Department must approve the licensed premises, including, where applicable, food service equipment.

2. **Neighborhood Impact:** The applicant or such other person designated by name, address and local telephone number in the application will be responsible for the orderly conduct of the function for which the license is issued. Consumption of alcoholic beverage outside of the structure within which the licensed function is to be held will not be permitted. Music, noise, or other function related activities must not create an undue imposition upon any adjacent residences. Police detail officers will be instructed to respond appropriately to complaints. Such response may include an order to terminate the event or otherwise limit the offending activity.

License fee shall be based upon current fee schedule.

A copy of the approval shall be forwarded to the ABCC within 10 days of the hearing.

## **Section 4.04 Earth Removal Permits**

Earth Removal permits shall be issued in accordance with the Earth Removal Ordinance, Article IX, Section 9 of the Town Bylaws.

## **Section 4.05 Circus Permit**

Circus permits shall be issued in accordance with all applicable State Law and Regulations. The Board of Selectmen reserves the right to deny a circus permit for cause, including but not limited to:

- Location
- Parking
- Safety
- Noise

## **Section 4.06 Peddler License**

Peddler licenses shall be reviewed and issued in accordance with Article V, Section 6 of the Town By-laws. Fee shall be in accordance with current fee schedule.

Applicant must first file for Commonwealth of Massachusetts, Division of Standards, Application for License to Peddle.

## **Section 4.07 Public Entertainment License (Monday-Saturday)**

A Public Entertainment License shall be required for any theatrical exhibition, public shows, public amusements, and exhibitions of every description HELD ON WEEKDAYS ONLY (a separate license is required for Sundays). The license may be an annual or daily license.

Upon receipt of a completed application, the Licensing Authority shall have 30 days to act upon same. The fee shall be set in accordance with the current fee schedule.

## **Section 4.08 Public Entertainment on a Sunday**

A Public Entertainment on a Sunday shall be required for any theatrical exhibition, public shows, public amusements, and exhibitions of every description held on a Sunday. The license may be an annual or daily license.

Upon receipt of a completed application, the Licensing Authority shall have 30 days to act upon same. The fee shall be set in accordance with M.G.L.

## **Section 4.09 Auctioneer License**

In order for a person to apply for an Auctioneer License in a city or town, they must be licensed by the State and must show proof of such license and must indicate State License number on application.

**ANNUAL** The only annual license the Town can issue is a license to a person who maintains a regular place of business for the conduct of auctions within the Town.

**SPECIAL** No person may conduct an auction in Town without obtaining a special permit from the Town.

### **APPLICATION**

Application for an annual permit or special permit shall be filed with the Licensing Authority and shall contain:

- Name, address and State license number of applicant
- Photocopy of State License
- Location and Hours of Auction
- General description of goods to be auctioned
- On special permit only, the estimated value of the goods and the date or dates
- Signed tax certification form
- CORI form

Within thirty (30) days after application is filed for a special permit, the Licensing Authority or auction permit agent shall either approve or deny the permit. Failure to act within thirty (30) days, shall constitute approval.

Within fourteen days after application is filed for annual permit, the Licensing Authority or auction permit agent shall either approve or deny the permit. Failure to act within the fourteen days shall constitute approval. Permit is good for one year from date of issuance.

When approved, applicant must pay required fee in accordance with current fee schedule.

## **Section 4.10 Automatic Amusement**

All automatic amusement licenses shall expire annually. License fees shall be in accordance with approved fee schedule.

No more than 3 automatic amusement machines shall be allowed in a commercial establishment. Upon receipt of a completed application the licensing authority shall place the item on the agenda for action.

An application for a commercial amusement center shall be submitted along with the following:

- a. Tax form indicating number & types of machines, etc.
- b. Floor plan showing location of machine, entrance, exits and all other) pertinent information.



- c. Plot plan of property showing parking spaces, proposed sign, and all other pertinent information.
- d. Tax Certification Form.

Application shall be forwarded to the Building Official.

After submission of completed application, an informal public hearing shall be scheduled.

### **Section 4.10(A) Jukebox License (added October 6, 2015)**

Jukebox licenses are designated a separate license from automatic amusement licenses. The fee for a jukebox license shall be in accordance with automatic amusement device fees.

### **Section 4.11 Base License**

For general operation of establishments such as Bowling Alley, Golf Driving Range, Drive-in Theater, Amusement Center. These establishments also require licenses for daily and Sunday operation.

Base licenses shall expire annually and fee shall be in accordance with current fee schedule.

All applicants must submit a CORI form with application.

Application shall be forwarded to the Building Official and Board of Health for recommendation.

### **Section 4.12 Bazaars & Raffles**

Licenses for Bazaars and Raffles are issued in accordance with the standards set forth under Mass. General Laws – Chapter 271 §7A.

### **Section 4.13 Billiards License**

A billiards license shall be required for a business in which a person rents a billiard table for one hour.

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required.

Upon receipt of a completed application a formal hearing shall be scheduled in accordance with Chapter 140 of the General Laws. All fees for abutter notification shall be the responsibility of the applicant. The license fee shall be in accordance with the current fee schedule.

### **Section 4.14 Class 1 and 2 Licenses**

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required.

A \$25,000 bond shall be required in accordance with MGL Chapter 140, § 58.

The application must be accompanied by the following:

- A certified abutters list.

- A detailed sketch plan of property showing all buildings, (proposed and existing) plus interior layout of building, septic system, water supply source, location and maximum number of vehicles to be parked thereon.
- Tax Attestation Form
- Workers Compensation Form
- CORI Form

Applicant must also file for a “Use & Sign Permit” with the Building Official.

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

### **Section 4.15 Class 3 License**

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required (Section IV-C-2-a and c of the Protective By-law).

The application must be accompanied by the following:

- an engineered plan showing boundaries, location of buildings (proposed & existing), fences, water lines, wells, septic system, drainage, wetlands, number and location of vehicles, all utilities, etc.
- a certified abutters list
- Tax Attestation Form
- Recommendation of Fire Chief on gasoline storage and/or oil storage and disposal.
- Workers Compensation Form
- CORI Form

Applicant must also file for a “Use & Sign Permit” with the Building Official.

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

### **Section 4.16 Common Victualler License**

All common victualler licenses shall expire on December 31<sup>st</sup>. All applications for a common victualler license shall be accompanied by the following (to be provided and paid for by the applicant):

1. Food Service Permit
2. Use and Sign Permit application if applicable.
3. CORI Form
4. Workers Compensation Form
5. Certificate of Good Standing from Massachusetts Department of Revenue

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

### **Section 4.17 Taxicab License**

**Taxicab license fee and operator’s fee shall be in accordance with current approved fee schedule.**

#### **General Rules of Operation**

- 1) No taxi cab shall operate from a location in the Town of Lunenburg without a license granted hereunder.
- 2) When so licensed, such cab shall operate from a stand or stands assigned to it by the Licensing Authority, which stands may be changed from time to time only with the prior approval of the Licensing Authority. The

assignment of stands shall be contingent upon complete adherence to the Protective Bylaw and all other applicable bylaws of the Town and State statutes.

- 3) All taxicab licenses issued by the Licensing Authority shall be distributed by and paid for at the office of the Licensing Authority unless otherwise ordered.
- 4) All applications for renewal of taxicab licenses shall be in the hands of the Licensing Authority no later than December 1<sup>st</sup> of each year.
- 5) No driver of a taxicab shall be required or permitted to drive or remain on duty for more than twelve (12) hours in any twenty-four (24) consecutive hours, and any such driver shall be relieved from duty for at least one period of not less than eight (8) consecutive hours during said twenty-four (24) hours.
- 6) No driver shall, while on duty, occupy any seat other than the driver's seat and at no time shall he permit anyone else to sit therein, or to operate said taxicab.
- 7) All taxicabs must be kept clean inside as well as outside at all times. All taxicabs are subject to inspection by the Licensing Authority or the duly appointed inspector. All taxicabs shall be made available for such inspections on such dates, places and times designated by the Licensing Authority.
- 8) Whenever requested by a passenger, or whenever there is a dispute over a fare, the driver shall give a receipt to said passenger which shall contain the company name, driver's name, badge number, cab number, date and time, origin and destination of the trip and the amount charged. Each licensee is hereby obligated to provide such receipt blanks which shall be carried in every taxicab at all times.
- 9) A taxicab shall not carry more persons than the maximum rating for the vehicle as established by the manufacturer of said vehicle.
- 10) Taxicabs shall establish rates for hire which are reasonable and in conformance with rates charged in the geographic area.
- 11) Each taxicab operator or driver shall use the most direct route possible from point of origin to point of destination for each trip unless otherwise directed by the passenger, or in cases of unusual circumstances in which an alternate route is in the best interest of the passenger.
- 12) Each taxicab driver shall maintain a driver trip sheet in the vehicle at all times while the taxicab is in operation. The taxicab licensee (company name), driver, date and the vehicle number shall appear on this sheet. In addition, the origin, destination and time of origin shall be entered immediately upon occurrence.
- 13) The operation of each taxicab, records keeping, adherence to proper rates of hire and compliance with all rules and orders of the Lunenburg Licensing Authority shall be the sole responsibility of the licensee of said taxicab.
- 14) Failure to comply with the rules and regulations of this regulation shall be grounds for the suspension or revocation of any license issued pursuant to these rules and regulations.
- 15) The annual fee for any and all licenses issued pursuant to these rules and regulations shall be established by the Licensing Authority and may be altered from time to time as the Licensing Authority determines necessary.

### **Taxicab Stands**

- 1) Patrolling or cruising for the sole purpose of soliciting patronage is prohibited.
- 2) Taxicab stands shall be established by the Lunenburg Licensing Authority, for the sole use of the licensee assigned said taxi stand.
- 3) No owner or operator shall enter any stand assigned to another company, and at no time shall solicit or accept passengers from said stand except by request of the dispatcher for the company assigned said stand.
- 4) During times of operation all taxicabs must be clearly identified as taxicabs.

### **Licensing of Taxi Drivers**

- 1) Each cab driver must obtain a license from the Licensing Authority authorizing him or her to operate a taxicab licensed under this regulation.
- 2) Each cab driver must possess a valid license issued by the Massachusetts Department of Motor Vehicles. Each applicant shall be required to submit evidence of his or her driving record including, but not limited to, the number and type of motor vehicle citations issued to the applicant, any motor vehicle accidents in which the applicant was involved while an operator of a motor vehicle and claims by the applicant to any individual or insurance company for reimbursement for property damage or personal injury as a result of a motor vehicle accident.
- 3) Each applicant shall upon approval of his or her application, submit an identification card to the Licensing Authority for their approval. Said card must be posted in any taxicab operated by the applicant in the Town of

Lunenburg. Said card must be posted in such a way so as to be plainly visible by any and all passengers of the taxicab.

- 4) The determination of the sufficiency of the material and information required under the provision of this and all regulations shall be in the sole discretion of the Licensing Authority.
- 5) Applicant shall furnish a copy of Certificate of Liability Insurance for each vehicle authorized in the amount of \$250,000 (Two hundred Fifty Thousand Dollars) for bodily injury to any one person; in the amount of \$500,000 (Five Hundred Thousand Dollars) for injuries to more than one person in the same accident; and \$100,000 (One Hundred Thousand Dollars) for property damage resulting from any one accident. Said Certificate shall be file with the Office of the Town Clerk. The Certificate shall include Workers Compensation coverage.
- 6) CORI Form

## **EXCERPT FROM GENERAL BYLAWS: ARTICLE II - TOWN ADMINISTRATION.**

**SECTION 14.** The Licensing Authority shall adopt rules and regulations for licensing of taxicabs, limousines and other related transportation services having their principal place of business within the Town of Lunenburg, including the establishment of fees and penalties.

### **Section 4.18 Limousine License**

A person wishing to operate a limousine service strictly on a door to door basis (no scheduled line run), must apply for a municipal license. The license fee shall be in accordance with the current fee schedule. Applicant must conform to applicable regulations in each city\town they wish to operate.

A person wishing to operate any type of charter limousine service (scheduled runs to airport, hotels, etc.) in addition to the door to door service, must have a DPU permit before they can apply for municipal permit for the door to door operation. They must also apply for permit in each city\town they wish to operate.

It should be noted that any trips to Logan Airport (whether charter or not) requires the person to obtain Massport license.

Person applying in Lunenburg must first obtain a Use and Sign Permit from the Building Inspector for permission to operate business from home or whatever location is used.

When Licensing Authority acts upon the municipal license, they may restrict such matters as number of vehicles, route to be taken, and any other matters in the best interests of the Town.

#### **General Rules of Operation**

- I. No limousine shall operate from a location in the Town of Lunenburg without a license granted hereunder.
- II. All limousine licenses issued by the Licensing Authority shall be distributed by and paid for at the office of the Licensing Authority unless otherwise ordered by the Licensing Authority.
- III. All applications for renewal of limousine licenses shall be in the hands of the Licensing Authority no later than December 1<sup>st</sup> of each year.
- IV. No driver of a limousine shall be required or permitted to drive or remain on duty for more than twelve (12) hours in any twenty four (24) consecutive hours, and any such driver shall be relieved from duty for at least one period of not less than eight (8) consecutive hours during said twenty-four (24) hours.
- V. All limousines must be kept clean inside as well as outside at all times. All limousines are subject to inspection by the Licensing Authority or the duly appointed inspector. All limousines shall be made available for such inspections on such dates, places and times designated by the Board.
- VI. Whenever requested by a passenger, or whenever there is a dispute over a fare, the drive shall give a receipt to said passenger which shall contain the company name, driver's name, date and time, origin and destination of the trip and the amount charged.
- VII. Limousines shall establish rates for hire which are reasonable and in conformance with rates charged in the geographic area.

- VIII. The operation of each limousine, records keeping, adherence to proper rates of hire and compliance with all rules and orders of the Lunenburg Licensing Authority shall be the sole responsibility of the licensee of said limousines.
- IX. Failure to comply with the rules and regulations of this regulation shall be grounds for the suspension or revocation of any license issues pursuant to these rules and regulations.
- X. The annual fee for any and all licenses issued pursuant to these rules and regulations shall be established by the Licensing Authority and may be altered from time to time as the Licensing Authority determines necessary.
- XI. Applicant shall furnish a copy of Certificate of Liability Insurance for each vehicle authorized in the amount of \$250,000 (Two hundred Fifty Thousand Dollars) for bodily injury to any one person; in the amount of \$500,000 (Five Hundred Thousand Dollars) for injuries to more than one person in the same accident; and \$100,000 (One Hundred Thousand Dollars) for property damage resulting from any one accident. Said Certificate shall be file with the Office of the Town Clerk. The certificate shall include Workers Compensation Insurance coverage.
- XII. CORI Form

## **Section 4.19 Gasoline Storage – Storage of Inflammables**

Application shall be accompanied by the following:

- Tax Certification Form
- Plot plan showing location of storage tank, septic system, buildings, well etc.

Completed application shall be forwarded to the Fire Chief for his recommendation prior to the scheduling of a hearing.

Once a hearing date has been set, the date and time of the hearing shall be advertised at least seven (7) days prior to said date. Applicant is required to notify abutters by certified mail at least seven (7) days before the hearing. A copy of the certified abutters list and return receipts must be presented to the Licensing Authority at the hearing. All costs associated with the advertising of the hearing shall be the responsibility of the applicant.

Renewal of the license is required by April 30<sup>th</sup> annually. In accordance with the general laws of the Commonwealth, the Town Clerk's office is responsible for renewal of these licenses.

## **Article V. Use of Public Buildings/Public Property**

### **Section 5.01 Pole Location Requests**

If a hearing is required for a pole location, a certified abutters list shall be obtained from the Assessors office and all abutters shall be notified of the date and time of the hearing. Application shall be sent to the Director of Public Works for recommendation.

All applications shall contain a clear plot plan showing the exact location of the proposed pole location.

### **Section 5.02 Road Acceptance**

Upon receipt of a completed application to lay out a road as a public town way, a vote of the Selectmen is required to schedule a hearing to lay out said road.

Application for road acceptance shall contain the following:

1. Formal request to Selectmen to lay out the road as a public town way.
2. Legal description of road for filing of deed.
3. Certification of title to the road, unless determined otherwise by the Selectmen.
4. Engineered plan of road with specific details as may be required by Board-i.e. any drainage easements, location of utilities, etc. Plan eventually must be filed with Registry of Deeds.

5. A list of names and address of all owners of and abutters to the road as certified by the Board of Assessor's.
6. Application Fee in accordance with the current fee schedule.

A copy of the complete application shall be sent to the Planning Board and Department of Public Works for their recommendation. All roadways must conform to specifications of the Lunenburg Planning Board's Rules and Regulations.

The Selectmen reserve the right to not act or to postpone action on any application for road acceptance that is not submitted sufficiently far in advance of an annual or special Town Meeting to provide adequate time to satisfy the deadlines to follow or to await a report from the Planning Board.

Notification of the layout hearing shall be posted in the newspaper at least 7 days before the hearing. A copy of the notice shall be posted in Town Hall and sent to all owners and abutters by certified mail at least 7 days before the hearing. The cost and expense of notice shall be borne by the applicant.

At the hearing, the Selectmen may vote to lay out the road.

An Order & Report of Layout with the boundaries and measurements of the way shall thereafter be filed with Town Clerk at least 7 days before the annual or special Town Meeting at which the Town is to act upon acceptance of the road.

If the road is accepted at Town Meeting, a copy of the deed shall be submitted by the applicant to the Board of Selectmen in a format acceptable to Town Counsel. Upon approval the original deed and original Mylar plan must be recorded at the Registry of Deeds by the applicant and proof of said recording provided to the Selectmen.

### **Section 5.03 Use of Public Ways**

No person shall place any table, tent, booth, stall or other thing in a street, highway, sidewalk, or on any of the public grounds in the town without a license from the Selectmen.

License is required for vehicular and/or mobile type units to sell goods on public ways. All vendors selling food must obtain all necessary licenses from the Board of Health.

This license entitles person to operate upon any public ways throughout the town, If a potential traffic hazard comes about, this will be a separate and distinct matter for the Police Department. In order to operate upon Town property (park, school, etc.) the applicant must get the approval from each department head involved.

### **Section 5.04 Toll Booth/Boot Drive Policy**

Any group or organization who wishes to obstruct a public way for any amount of time for the purposes of fundraising in any manner must obtain permission from the Board of Selectmen. The request must be made in writing on the approved form not less than 30 days prior to the event to allow the Board a satisfactory amount of time to take action on the request.

The organization shall be a charitable or non-profit group and the proceeds of the boot drive must be used exclusively for charitable purposes.

Organizations conducting such activity must adhere to the following requirements:

1. No inappropriate coercion during the collection of donations;
2. Persons in the road must be at least 18 years of age and all persons under 18 are to remain on the sidewalk;
3. Activities shall be conducted no earlier than ½ hour after sunrise and end no later than ½ hour before sunset;
4. All persons in the road must wear DOT (ANSI 107 compliant Class II vest, Class III Highway Safety garment, or ANSI 207 Public Safety vest) approved reflective clothing to minimize danger while they are in the roadway;
5. Appropriate signage, providing notice of the upcoming boot drive and identifying the name of the charitable organization, must be employed at least 100 yards in advance of the collection location;

6. Orange highway cones must be co-located with the signage and at the collection location;
7. If public safety vehicles are to approach, the collectors are to expeditiously but safely move out of the way;
8. Submit a completed permit application for the event to the Board of Selectmen's Office at least 30 days prior to the event;
9. Submit a completed hold harmless/waiver of liability form for each participant to the Town Manager no later than the Thursday prior to the event.

Failure to comply with these requirements may be grounds for denial of a permit, immediate suspension of fundraising activity, and potential denial of permit for future events. The Chief of Police and all other police officers of Lunenburg Police Department are authorized by law, and hereby appointed as agents of the Board for purposes of enforcing this policy.

## **Article VI. Public Relations**

### ***Section 6.01 Boston Post Cane*** (Approved by Board of Selectmen on 5/26/98)

Criteria for Selection:

1. Oldest registered voter, according to Town Records
2. Resident of Lunenburg at least 25 years during their lifetime, as verified by Town Records
3. An active member of the community in the past.

Procedure for Selection:

1. A questionnaire will be sent to the five oldest people in town, as listed in the Town's Annual Census
2. Respondents will be screened by a sub-committee of the Council on Aging
3. If two or more residents meet the criteria, the person living the longest period of time in the town will be given the advantage
4. The sub-committee will report their findings to the Council on Aging
5. Following approval of the selection by the Council on Aging, a recommendation will be made, in writing to the Board of Selectmen for acceptance

Presentation:

1. A symbolic presentation of the Boston Post Cane by the Chairman of the Board of Selectmen or a designee will take place at a public ceremony
2. If the recipient is not physically able to attend the ceremony, the presentation will take place in his/her home
3. A replica lapel pin of the Boston Post Cane and a framed certificate will be presented to the recipient
4. At that time, a photograph will be taken of the recipient with the Boston Post Cane and certificate.
5. This photograph will be mounted below the case where the cane is on display in the Eagle House Senior Center
6. The recipient's name will be added to the list of past recipients, also mounted below the display case. The honoree will hold the designation as holder of the Lunenburg Boston Post Cane as long as they continue to meet the criteria.

## **Article VII. Personnel**

### **Section 7.01 Family & Medical Leave**

#### **INTRODUCTION**

The Federal Family and Medical Leave Act of 1993 ("FMLA") entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons, as explained below.

#### **EMPLOYEE ELIGIBILITY**

To be eligible for FMLA benefits with the Town of Lunenburg (the "Town"), an employee must:

- Work for the Town;

- Have worked for the Town for a total of at least twelve months in the prior seven years; and
- Have worked at least 1,250 hours over the previous twelve months.

### LEAVE ENTITLEMENT

**Section 1.** The Town will grant an eligible employee up to a total of twelve (12) work weeks of unpaid leave during a rolling 12-month period<sup>1</sup> for one or more of the following reasons:

- For the birth of a son or daughter and to care for the new born son or daughter;
- For the placement with the employee of a son or daughter for adoption or foster care;
- To care for an immediate family member (spouse, son or daughter, or parent) with a serious health condition;
- When the employee is unable to work because of his/her own serious health condition that prevents him/her from performing the functions of his/her job; or
- For a “qualifying exigency” (as defined in 29 CFR § 825.126) when the employee’s spouse, son, daughter, or parent who is a member of the National Guard or Reserves has been notified of a call or order to active duty in support of a contingency operation. Such qualifying exigency leave does not extend to family members of military personnel in the Regular Armed Forces, state reserve unit, or a state guard unit.

Spouses employed by the Town are jointly entitled to a combined total of twelve workweeks of family leave, except when the leave is needed to care for a son, daughter or spouse with a serious health condition; under such circumstances, such employees may each be eligible for up to 12 weeks of family leave.

Leave for birth or placement for adoption or foster care must conclude within twelve months of the birth or placement.

**Section 2.** The Town will also grant an eligible employee up to a total of twenty-six weeks of unpaid FMLA leave for the following reason:

1. To care for a spouse, son, daughter, parent, or next of kin (i.e., nearest blood relative), who is a current member of the Armed Forces (including a member of the National Guard or Reserves) and who is undergoing medical treatment, recuperation or therapy, is an outpatient, or is on the temporary disability retired list, for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces, (or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty in the Armed Forces).
2. To care for a spouse, son, daughter, parent, or next of kin (i.e., nearest blood relative), who is a veteran undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces (or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty) and manifested itself before or after the member became a veteran. The veteran must have been a member of the Armed Forces (which includes the National Guard or Reserves) at any time during

---

<sup>1</sup> For the purposes of calculating the 12-month period referred to above, the Town will measure the 12-month period backward from the date of an employee’s request for FMLA leave. Each time an employee takes FMLA leave, the Town will determine the total amount of FMLA leave used by the employee during the preceding 12 months, and the remaining time available to the employee will be the balance of 12 weeks which has not been used.



the period of five years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy.

Such 26-week leave period shall only be available for a single 12-month period.<sup>2</sup> To the extent spouses work for the Town, the aggregate number of workweeks available to both spouses shall be limited to 26 weeks during the single 12-month period. In addition, any leave taken during that single 12-month period for one of the other qualifying reasons (as noted in this Policy) shall count against the 26 weeks available. (Only 12 of the 26 weeks total may be used for an FMLA-qualifying reason other than to care for a covered servicemember.)

### **Section 3.**

1.
  - (a) Under some circumstances, employees may take FMLA leave intermittently.
  - (b) When intermittent leave is needed to care for an immediate family member, the employee's own illness, or a covered servicemember, and is for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the Town's operation.
2. The Town may temporarily transfer an employee taking intermittent or reduced schedule leave to an alternative job, with equivalent pay and benefits, that accommodates recurring periods of leave better than the employee's regular job when such leave is foreseeable based on planned medical treatment.
3. Also, the Town requires employees to use accrued paid leave, such as sick or vacation leave, or compensatory time, to cover some or all of the FMLA leave. When paid leave is used, the employee must follow the Town's paid leave policies and procedures with respect to use of such leave.
4. Any leave taken by an eligible employee for any of the reasons covered by this policy will be considered FMLA leave and will be designated as such even if the employee does not specifically identify the time off as FMLA leave.

### **MAINTENANCE OF HEALTH BENEFITS**

The Town will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. The employee will make arrangements with the Town to pay his or her share of health insurance premiums while on leave. The Town may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

### **JOB RESTORATION**

Upon return from FMLA leave, an employee will be restored to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

In addition, an employee's use of FMLA leave will not result in the loss of an employment benefit that the employee earned or was entitled to before using FMLA leave.

---

<sup>2</sup> Calculation of the single 12-month period in this Section shall be based off the 12-month period immediately following the first day of such FMLA-qualifying leave. Such 26-week period shall not be based on the rolling measurement noted in Section 1.

## NOTICE, CERTIFICATION AND STATUS REPORTS

Employees seeking to use FMLA leave are required, as appropriate, to provide to the Town:

- NOTICE: Thirty (30) days advanced notice of the need to take FMLA leave when the need is foreseeable, otherwise as soon as is practicable.
- MEDICAL CERTIFICATION:
  - Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member, or a covered servicemember with a serious injury or illness;
  - Second or third medical opinions and periodic recertifications (at the Town's expense) if requested by the Town; and
  - Medical certification and/or fitness for duty certification supporting the employee's ability to return to work as requested by the Town, which the Town may request include a statement from a health care provider that the employee can perform all of the essential functions of the job.
- QUALIFYING EXIGENCY: Certification supporting the need for leave due to a qualifying exigency.
- STATUS REPORTS: Periodic reports during FMLA leave regarding the employee's status and intent to return to work as requested by the Town.

## OTHER PROVISIONS

This Policy shall at all times be interpreted in a manner consistent with the Department of Labor's Regulations pertaining to the Family and Medical Leave Act of 1993. The FMLA does not affect any other federal or state law that prohibits discrimination, nor supersede any state or local law that provides greater family or medical leave protection. Nor does it affect the Town's obligation to provide greater leave rights under a Collective Bargaining Agreement or employment benefit plan, where applicable.

## DEPARTMENTAL PROCEDURES

The Town's department heads, with the approval of the Town Manager, may establish their own procedures to implement this policy, consistent with the policy.

## **Section 7.02 Sexual Harassment**

### Introduction

The Town of Lunenburg (the "Town") depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

Sexual harassment is a form of behavior that adversely affects the employment relationship. State and Federal law prohibit such behavior. Sexual harassment of individuals occurring in the workplace or in other settings in which individuals of the Town may find themselves in connection with their employment is unlawful and will not

be tolerated by the Town. The Town also condemns and prohibits sexual or other harassment by any applicant, client, vendor or visitor.

Because the Town takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate, including discharge.

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

- **Definition of Sexual Harassment**

Sexual harassment does not refer to purely voluntary social activities. It refers to behavior which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute sexual harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute sexual harassment.

- verbal abuse of a sexual nature;
- use of sexually degrading words;
- jokes or language of a sexual nature;
- conversation or gossip with sexual overtones;
- obscene or suggestive gestures or sounds;
- sexually-oriented teasing;
- verbal comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
- inquiries into one's sexual experiences;
- discussion of one's sexual activities;
- comments, jokes or threats directed at a person because of his/her sexual preference;
- unwelcome and repeated invitations (for lunch, dinner, drinks, dates, sexual relations);
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment;
- physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or repeated brushing up against one's body;
- deliberate bumping, cornering, mauling, grabbing;
- assaults, molestations or coerced sexual acts;

- posting or distributing sexually suggestive objects, pictures, cartoons or other materials;
- sexually-oriented letters or notes;
- sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;
- staring at parts of a person's body;
- sexually suggestive gestures, leering; and
- condoning sexual harassment.

Sexual harassment is not limited to prohibited behavior by a male employee toward a female employee. Sexual harassment can occur in a variety of circumstances. Here are some things to remember.

- A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser;
- The harasser does not have to be the victim's supervisor;
- The victim does not have to be of the opposite sex from the harasser;
- The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance.

- **Individual Responsibilities**

Each individual of the Town is personally responsible for:

- ensuring that his/her conduct does not sexually harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- cooperating in any investigation of alleged sexual harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such discrimination; and
- ensuring that an employee who files a sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

- **The Rule**

It is, therefore, against the policy of the Town for any individual, male or female, to harass another individual sexually, that is, by making unwelcome sexual advances, requests for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either implicitly or explicitly a term or condition of an employee's employment;

- submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;
- such conduct has the purpose of interfering with an individual's work performance; or
- a hostile or intimidating work environment is created for the employee.

It is also against the policy of the Town for an individual to sexually harass any person with whom the employee comes in contact on the job or to engage in any harassment or inappropriate or unprofessional conduct in the workplace.

- **Retaliation**

Retaliation against an individual for filing a complaint of sexual harassment or against any individual for cooperating in an investigation of a sexual harassment complaint is against the law.

## **VIOLATION OF POLICY**

Any individual violating this policy will be subject to appropriate discipline, including possible discharge.

## **PROCEDURES FOR COMPLAINTS**

- **Complaint**

The Town has designated a Sexual Harassment Grievance Officer. The current Protected Class Sexual Harassment Grievance Officer is Heather Lemieux, Town Manager. She can be reached at Town Hall, 17 Main Street, 2<sup>nd</sup> floor, Lunenburg, MA 01462, and her telephone number is (978) 582-4144. If you would prefer, you may contact Nancy Forest, Payroll/Benefits Coordinator & Risk Coordinator, who has been designated as the Alternate Protected Class Harassment Grievance Officer. She can be reached at Town Hall, 17 Main Street, 1<sup>st</sup> floor, Lunenburg, MA 01462, and her telephone number is (978) 582-4134.

If any individual believes he or she has been subjected to sexual harassment, the individual should initiate a complaint by contacting the Sexual Harassment Grievance Officer as soon as possible. The individual should file the complaint promptly following any incident of alleged harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Sexual Harassment Grievance Officer to investigate what occurred. The individual will be requested to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible sexual harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting sexual harassment and may go directly to the Grievance Officer.

- **Investigation**

Upon receiving the complaint, the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer will promptly undertake an investigation of the matter. The investigation may include private interviews with the employee making the complaint, with witnesses, and with the person accused of sexual harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

- **Decision**

After the response of the charged individual has been made, and any further investigation that may be warranted has been carried out, the Town will make a final decision. If the Town finds that the allegations in the

complaint have been established by the investigation, the Town will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge subject to the Town's at-will employment policy.<sup>3</sup>

The complainant will be notified of the disposition of the investigation.

### **STATE AND FEDERAL AGENCIES**

The Massachusetts Commission Against Discrimination ("MCAD"), with offices at 484 Main Street, Suite 320, Worcester, MA 01608, 436 Dwight Street, Springfield, MA 01103, and One Ashburton Place, Boston, MA 02108, is responsible for enforcing the Massachusetts sexual harassment law, and the U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting sexual harassment. The EEOC is located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203. They may be contacted at the above addresses. A complaint to the MCAD must be filed within 300 days. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

## **Section 7.03 Protected Class Harassment**

### **Policy**

- **Introduction**

The Town of Lunenburg (the "Town") depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

Unlawful harassment on the basis of race, creed, color, national origin, gender, age, military status, physical or mental disability, sexual orientation, or genetic information (hereafter referred to as "protected class harassment") is a form of behavior that adversely affects the employment relationship. It is prohibited by Federal and/or State law. Protected class harassment of individuals occurring in the workplace or in other settings in which individuals of the Town may find themselves in connection with their employment is unlawful and will not be tolerated by the Town. The Town also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

Because the Town takes allegations of protected class harassment seriously, we will respond promptly to complaints of protected class harassment and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate, including discharge.

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of protected class harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of protected class harassment.

- **Definition of Protected Class Harassment**

Protected class harassment refers to behavior, which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute protected class harassment,

---

<sup>3</sup> Employees of the Town that are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute protected class harassment.

- verbal abuse on the basis of any protected status;

- use of words that degrade a protected class or person because of his/her protected class status;
- jokes or language about a protected class;
- obscene or suggestive gestures or sounds intended to relate to the protected class;
- teasing related to the protected class;
- verbal comments of a nature about an individual's appearance or terms used to describe an individual that are related to the individual's protected class;
- verbal abuse, comments, jokes, teasing or threats directed at a person because of his/her protected class status;
- posting or distributing objects, pictures, cartoons or other materials degrading to the protected class or a person because of his/her protected class status;
- letters or notes that degrade the protected class or a person because of his/her protected class status;
- sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which are degrading to the protected class or a person because of his/her protected class status;
- condoning harassment on the basis of protected class.

Harassment on the basis of protected class status is not limited to behavior by a non-member of the protected class. Protected class harassment can occur in a variety of circumstances. Here are some things to remember:

- The harasser does not have to be the victim's supervisor;
- A member of the protected class may be victimized by another member of the protected class;
- The victim does not have to be the person at whom the unwelcome protected class harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance;



- **Individual Responsibilities**

Each individual of the Town is personally responsible for:

- ensuring that his/her conduct does not harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- cooperating in any investigation of alleged protected class harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate protected class harassment and to maintain a working environment free from such discrimination; and
- ensuring that an employee who files a protected class harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

- **The Rule**

It is, therefore, against the policy of the Town for any individual, whether a member of a protected class or not, to harass another individual on the basis of protected class status by:

- making submission to such conduct either implicitly or explicitly a term or condition of an employee's employment;
- making submission to, or rejection of, such conduct by an individual the basis for employment decisions affecting the employee;
- intending to or having the effect of interfering with an individual's work performance; or
- by creating a hostile or intimidating work environment for the employee.

It is also against the policy of the Town for an individual to harass any person with whom the employee comes in contact on the job or to engage in any protected class harassment or inappropriate or unprofessional conduct in the workplace.

- **Retaliation**

Retaliation against an individual for filing a complaint of protected class harassment or against any individual for cooperating in an investigation of a protected class harassment complaint is against the law.

**Violation of Policy**

Any individual violating this policy will be subject to appropriate discipline, including possible discharge.<sup>4</sup>

**Procedures for Complaints**

**Complaint** The Town has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is Heather Lemieux, Town Manager. She can be reached at Town Hall, 17 Main Street, 2<sup>nd</sup> floor, Lunenburg, MA 01462, and her telephone number is (978) 582-4144. If you would prefer, you may contact Nancy Forest, Payroll/Benefits Coordinator & Risk Coordinator, who has been designated as the Alternate Protected Class Harassment Grievance Officer. She can be reached at Town Hall, 17 Main Street, 1<sup>st</sup> floor, Lunenburg, MA 01462, and her telephone number is (978) 582-4134.

---

<sup>4</sup> Employees of the Town that are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

If any individual believes he or she has been subject to protected class harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Protected Class Harassment Grievance Officer as soon as possible. The individual should file the complaint promptly following any incident of protected class harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Protected Class Harassment Grievance Officer to reconstruct what occurred. The individual will be requested to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible protected class harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting protected class harassment and may go directly to the Grievance Officer.

- **Investigation**

Upon receiving the complaint, the Protected Class Harassment Grievance Officer or the Alternate Protected Class Harassment Grievance Officer will promptly undertake an investigation of the matter. The investigation may include private interviews with the employee making the complaint, with witnesses, and with the person accused of protected class harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

**Decision**

After the response of the charged individual has been made, and any further investigation which may be warranted has been carried out, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge.

The complainant will be notified of the disposition of the investigation.

**State and Federal Agencies**

The Massachusetts Commission Against Discrimination ("MCAD"), with offices at 484 Main Street, Suite 320, Worcester, MA 01608, 436 Dwight Street, Springfield, MA 01103, and One Ashburton Place, Boston, MA 02108, is responsible for enforcing the Massachusetts discrimination and protected class harassment law, and the U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting protected class harassment. The EEOC is located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203. They may be contacted at the above addresses. A complaint to the MCAD must be filed within 300 days. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

## **Section 7.04 Alcohol & Drug Policy for Employees with a Commercial Drivers License**

It is the Town's goal to maintain a safe, healthy, and productive work environment for all employees. To achieve that goal, and to maximize the skills and talent of Town employees, it is important that every employee of the Town of Lunenburg, (the "Town") understands the dangers of drug and alcohol abuse and is aware of the state and federal requirements concerning substance abuse.

**Policy Objectives**

1. To create and maintain a safe, drug-free working environment for all employees;

2. To encourage any employee with a dependence on, or addiction to, alcohol and other drugs to seek help in overcoming the problem;
3. To reduce problems of absenteeism, tardiness, carelessness and/or other unsatisfactory matters related to job performance;
4. To reduce the likelihood of incidents of accidental personal injury and or damage to property;
5. To meet the requirements of the regulations of the Federal Motor Carrier Safety Administration Department of Transportation (FMCSA), an agency within the U.S. Department of Transportation (DOT), for employees that operate a commercial motor vehicle as part of their job responsibilities for the Town ; and
6. To protect the reputation of the Town and its employees.

Substance abuse is a serious threat to Town employees. It is our belief that the benefits derived from the policy objectives outweigh the potential inconvenience to employees.

### **General Policy**

Practical experience and research have proven that even small quantities of narcotics, abused prescription drugs, or alcohol can impair judgment and reflexes. Even when not readily apparent, this impairment can have serious results, particularly for employees operating vehicles or potentially dangerous equipment. Drug and alcohol using employees are a threat to co-workers and themselves and may make costly errors. For these reasons, the Town is committed to assuring a drug and alcohol free environment for all employees. As a condition of employment with the Town, the Town requires that all employees adhere to this policy.

### **Prohibited Conduct and Activity**

- **Prohibitions**

- All employees are prohibited from using, possessing, distributing, selling or manufacturing, any illegal drug or non-prescribed controlled substance or alcohol or marijuana on Town property, while operating a Town vehicle, while on Town business, or on Town premises.
- All employees are prohibited from reporting to work while under the influence of any illegal drug, non-prescribed controlled substance, alcohol, or marijuana.
- An employee found to have engaged in prohibited conduct may be subject to disciplinary action up to and including immediate termination of employment.
- Any vendor, contractor, or subcontractor in violation of this Policy, or who refuses to cooperate with the implementation of this Policy, may be excluded from Town facilities.
- As required by FMCSA regulations, employees that operate a commercial motor vehicle shall not consume alcohol at least four hours prior to on duty time, up to eight hours following an accident or until an employee undergoes a post-accident test, whichever occurs first.

- **Exceptions**

The proper use of medication prescribed by a physician is not prohibited; however, the Town prohibits the misuse of prescribed (or over the counter) medications, including medicinal marijuana, and requires all employees using medications at the direction of a physician to notify their supervisor prior to beginning work when these drugs may adversely affect their performance, such as by causing drowsiness. Failure to report such use may subject the employee to discipline under this Policy.

An employee shall be allowed to provide notice to the Town of currently or recently used prescription and non-prescription medication at the time of the taking of the specimen to be tested. The Town may request a copy of the prescription or to review the prescription bottle. If the employee refuses to provide such information, the Town may deem the employee to have refused to submit to testing and may be subject to discipline up to and including termination of employment.

## Searches

*Town Property.* Lockers, desks, storage drawers and work areas are Town property and are subject to unannounced inspections by the Town. Personal or private items should not be stored in such property. The Town may exercise its rights to search Town property for illegal drugs, drug paraphernalia, and any other items not permitted on the Town premises.

*Non-Town Property.* The Town reserves the right to search the possessions of employees and any employee of vendors, contractors, and subcontractors upon entering and leaving Town property, at any time without prior announcement. At such times, all briefcases, purses, portfolios, lunch boxes, toolboxes, vehicles, and other articles and containers may be subject to inspection.**Substance Screening for Employees that Operate a Commercial Motor Vehicle.**

The testing for drug and alcohol use by employees who are employed as drivers of commercial motor vehicles at the Town shall be in accordance with FMCSA regulations.

- **Driver of a Commercial Motor Vehicle** - A commercial motor vehicle is defined as a vehicle having a gross vehicle weight rating of 26,001 or more pounds; or is designed to transport 16 or more occupants (to include the driver); or is of any size and is used in the transport of hazardous materials that require the vehicle to be placarded. An employee is considered a driver of a commercial motor vehicle if he is a full-time, regularly employed driver, casual or intermittent or occasional driver, or a leased driver of such vehicles.
- **Types of Tests**
  - **Pre-employment.** All applicants for positions requiring operation of a commercial motor vehicle, or candidates for transfer or promotion to such a position, are subject to screening for controlled substances.
  - **Reasonable Suspicion.** All employees may be required to submit to screening whenever a trained supervisor observes circumstances which provide reasonable suspicion to believe an employee is under the influence of a controlled substance or has otherwise violated the substance abuse policy. Examples of reasonable suspicion include:
    - Direct observation of an employee using drugs or alcohol during work hours, on Town property, in a Town vehicle, or the discovery of drug-related paraphernalia in the possession or control of the employee.
    - Observation by a trained supervisor or other trained personnel that an employee is exhibiting the physical symptoms of substance use during work hours or on Town property.
    - Drug or alcohol related incidents.

The above list is not intended to be all-inclusive.

- **Post Accident Testing.** All employees that operate Commercial Motor Vehicles may be required to submit to screening in the event they are involved in an accident. An accident is defined as an incident involving a commercial motor vehicle in which there is either a

fatality, an injury treated away from the scene, or a vehicle being required to be towed from the scene. Alcohol tests should be conducted within 2 hours, but in no case more than 8 hours after the accident. Employees must refrain from all alcohol use until the test is complete. Post-accident drug tests must be conducted within 32 hours.

- **Random.** Conducted on a random, unannounced basis just before, during or after operating a commercial motor vehicle.
- **Return to Duty and Follow-up.** Conducted when an individual who has violated the alcohol or drug standards returns to duties of operating a commercial motor vehicle. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first twelve (12) months after a driver returns to duty. Follow-up testing may be extended for up to sixty (60) months following the return to duty.
- **Testing Procedures** – All tests under this section will be conducted in accordance with all applicable DOT and U.S. Department of Health and Human Services rules and procedures. These procedures are summarized below.

- **Alcohol**

DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 percent alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, but less than 0.04, the driver shall be precluded from performing driver safety-sensitive functions for at least 24 hours. Although DOT and FMCSA regulations do not require it, the Town has independent authority to subject the driver with an alcohol concentration of 0.02 or greater but less than 0.04 to further discipline. Driver safety-sensitive functions include the following:

- All time on Town property, public property, or other property waiting to be dispatched to drive;
- All time inspecting, servicing or conditioning any commercial motor vehicle at any time;
- All driving time in a commercial motor vehicle;
- All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving receipts for shipments loaded or unloaded;
- All time spent performing driver requirements relating to accidents; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## **Drugs**

- Drug testing is conducted by analyzing a driver's urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility and in accordance with U.S. Department of Health and Human Services procedures. Specimen collection procedures and chain of custody requirements

will be followed to ensure that the specimen's security, proper identification and integrity are not compromised.

- FMCSA rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the testee has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.
- All urine specimens are analyzed for the following drugs:  
  
Marijuana (THC metabolite)  
Cocaine  
Amphetamines  
Opiates (including heroin)  
Phencyclidine (PCP)
- Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug. (Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.)
- All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the Town. If the laboratory reports a positive result to the MRO, the MRO will contact the testee and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If the MRO determines that the drug use is legitimate, the test will be reported to the Town as a negative result.

## **Information/Training**

The Town maintains additional information concerning the effects of alcohol and controlled substance use on an individual's health, work, and personal life, which is available upon request for employees. Employees who are employed as drivers of commercial motor vehicles at the Town shall be provided this information in connection with the issuance of this policy. Employees may also contact the Nancy Forest for information about available substance abuse programs and methods of intervention.

## **Questions**

Any employee with question(s) regarding this Drug and Alcohol Policy should contact the Town Manager. The Town may modify, change or amend this Policy at any time without notice or issue additional rules as required or deemed appropriate by the Town. All employees will be given a copy of this Policy to review and retain.

The Town Manager may issue administrative procedures to implement this Policy.

## **Section 7.05 Compensatory Time**

There will be no compensatory time for exempt employees. If there is an extraordinary situation, the Town Manager upon review, may approve time off with pay.

## **Section 7.06 Equal Opportunity**

The Town of Lunenburg is an equal opportunity employer. The Town does not unlawfully discriminate on the basis of race, color, age, sex, genetic information, sexual orientation, religion, national origin, ancestry, disability, military status, or any other legally protected classification with regard to any term or condition of employment including, but not limited to, hiring, firing, promotions, discipline changes in compensation or benefits.

The Town will make reasonable accommodations to qualified individuals with disabilities to enable them to perform the essential functions of the job(s) they are holding or seeking unless doing so would result in an undue hardship. The Town will also make reasonable accommodations in the hiring process. Accommodation requests are evaluated on a case-by-case basis. All employees are expected to support and participate in any reasonable accommodation determined by management.

## **Section 7.07 Sick Leave Policy**

This policy shall apply to all employees under the supervision of the Town Manager.

A phone call/email notice of an employee's inability to report to work due to sickness or personal emergency shall be reported to their office staff as soon as possible. In the event the office is un-staffed contact the Town Manager as soon as possible.

## **Section 7.08 Contractors**

Contracting with an outside individual or agency requires adherence to public procurement laws including the use of a written contract and a disclosure form, obtainable from the Selectmen's Office or the Finance Director/Town Accountant . Copies of all bid documents must be sent to the Chief Procurement Officer, and a copy of the contract must also be sent to the Finance Director/Town Accountant.

Should a copy of the executed contract not be on file with the accounting office at the time a voucher for payment is submitted, the voucher will be returned for insufficient information.

## **Section 7.09 Town Communications**

All communications regarding Town procedure and administration or which may affect the Town or its personnel as a whole, will either originate from or be approved by the Town Manager prior to distribution. No individual in the Town is to send or distribute any communication to "All Personnel" or "All Users" without prior authorization from the Town Manager. Managers are authorized to send or distribute communications regarding their area's business.

## Section 7.10 Social Media Policy

### I. Statement of policy:

The purpose of this policy is to provide notice to employees of the Town that their use of social media must adhere to all state, federal and local laws, rules and regulations, policies of the Town and this policy. The following policy pertains to official (“Town”) and non-official (“Personal”) use of social media services and tools. The Town has both an expectation and responsibility regarding the integrity and presentation of information posted on its social media sites and the content that is attributed to the Town, its Departments and its officials. Questions regarding this policy should be directed to the Town Manager.

The Town of Lunenburg wants to encourage the community to share, connect, and discover all that the Town has to offer. The Town of Lunenburg permits the use of social media as a forum to educate, disseminate information from the Town to the members of the public, and increase access to Town services.

### II. Definitions:

1. “Social media sites” means content created by individuals using publishing technologies through and on the internet. The types of content and examples of services to which this policy applies include, but are not limited to:

- Media Sharing- i.e.: YouTube, Flickr, iTunes
- Blogging/Microblogging- i.e. WordPress, Blogger, Twitter
- Social Networking- i.e. Facebook, MySpace, LinkedIn, Ning
- Document and Data Sharing Repositories- i.e. Scribd, SlideShare, Socrata
- Social Bookmarking- i.e. Delicious, Digg, Reddit
- Widget- i.e. Google Maps, AddThis, Facebook “Like”

2. “Town social media sites” means social media sites and content which the Town establishes and maintains, with the exception of content from advertisements or hyperlinks provided by the social media site’s owners, vendors or partners. Town social media sites do not replace the Town’s required notices and standard methods of communication.

3. “Posts” or “postings” means the content, information, articles, pictures, videos or any other form of communication posted on a social media site.

4. “Administrator of social media site” is the authorized Town of Lunenburg employee that creates and is responsible for posted articles and information on social media site.

### III. Procedure:

1. The establishment and use of Town social media sites are subject to approval by the Town Manager.

2. The establishment of social media sites is limited to only those departments who have information deemed necessary to disseminate to the public.

3. All Town social media sites shall be administered by the Town Manager or her/his designee. This person will be the Administrator of the social media site and is responsible for the content posted and adherence to all state, federal and local laws, rules and regulations, including the Public Records Law, Public Records retention schedules, Copyright Law and other applicable policies of the Town and this policy.



4. Town social media sites should use authorized Town contact information for account set-up, monitoring and access. The use of personal email accounts or phone numbers by any Town employee should be avoided for the purpose of setting-up, monitoring, or accessing a Town social media site. In such cases that a personal email account has been used to set up an account, the department head will monitor the content and have the ability to remove any content that violates the provisions of this policy. In the event the department head is the employee that has used a personal email account and violates the provisions of the policy, the Town Manager will have the right to remove the content.

5. Employees representing the Town on town social media sites shall conduct themselves at all time as a professional representative of the Town and in accordance with all Town policies. These policies include but are not limited to the Standards of Conduct, Harassment Policy and Protected Class Harassment Policy. Any employee authorized to post items on any of the town's social media sites shall not express his or her own personal views or concerns through such postings. Postings shall only reflect the views of the Town. Any employee authorized to post items on any of the town's social media sites shall protect the privacy of the citizens and any confidential, proprietary information that the Town holds.

6. All social media sites and entries shall clearly indicate that any content posted or submitted is subject to public disclosure. Public Records Law and e-discovery laws and policies apply to social media content. Any content maintained on a Town social media site that is related to Town business, including a list of subscribers, posted communication, and communication submitted for posting, may be considered a public record. Accordingly, such content must be able to be managed, stored and retrieved to comply with these laws. Furthermore, once such content is posted on a social media site, it should stay posted, unless it is removed for one of the reasons as outlined in this policy, or it is changed to fix spelling or grammar errors.

7. Photos and video posted on Town social media sites shall conform to the intent of this policy including non-disclosure of confidential information, protect the privacy of individuals as required by all state and federal laws. A signed photo release must be obtained prior to posting pictures of minors.

8. Each town social media site shall include an introductory statement which clearly specifies the purpose and scope of the blog or social media site. This statement shall include that the site is maintained by the Town of Lunenburg, the Administrator of the site's contact information and that the site follows the Town's Social Media Policy. The Social Media Policy must be displayed to users or made available by hyperlink. All town social media sites shall link back to the official Town of Lunenburg website or the applicable official Town department webpage.

9. Each social media site shall indicate to users that the site is subject to a third party's website Terms of Service. Furthermore, each town social media site shall indicate that the social media provider could collect personal information through user's use of the social media site and that this information may be disseminated by the third party and that such dissemination may not be governed or limited by any state, federal or local law or policy applicable to the Town.

10. The Town reserves the right to restrict, remove any content that is deemed in violation of this policy or any applicable law, or terminate any town social media site at any time without notice.

11. Town of Lunenburg social media content and comments containing any of the following forms of content shall not be allowed for posting and are subject to removal:

- a. Comments not topically related to the particular site or blog article being commented upon;
  - b. Profane, obscene, or vulgar language or content;
- c. Content that promotes, fosters or perpetuates discrimination on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation;
- d. Conduct or encouragement of illegal activity;
- e. Information that may tend to compromise the safety or security of the public or public systems;
  - f. Defamatory or personal attacks;
  - g. Threats;
  - h. Violations of any federal, state or local law;
  - i. Solicitation;
  - j. Comments relative to political campaigns;

12. The Town of Lunenburg reserves the right to deny access to the Town of Lunenburg social media sites for any individual who violates the Town's Social Media Policy.

13. All Town of Lunenburg employees will review the terms of this policy to ensure compliance. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

IV. Non-Official/Personal Use of Social Media Sites by Employees:

A. Employees Personal Use of Social Media Sites at Work:

Employees shall refrain from using social media sites and tools for personal use while on work time or when using Town provided equipment, unless it is work related as authorized by the Town Manager or his/her designee. Employees shall have no expectation of privacy when using social media sites during work hours, or when using Town computers, systems or other technology. The Town reserves the right to access, view and act upon any information on its computers, systems, or other technology without notice unless restricted from such access by state or federal law.

B. Employees Personal Use of Social Media Sites Outside of Work:

The Town is aware that employees may maintain or contribute to a form of social media outside of their job function. Employees that post on social media sites outside of work should not discuss work-related information unless the matter about which they are communicating is a matter of public concern protected by the First Amendment. Employees, however, should understand that the right to free speech is not absolute. Employees shall not disclose any Town-related information that is not already considered public information. As representatives of the Town of Lunenburg, employees should exercise caution with respect to comments they post concerning the Town, its employees or officials.

If employees personally access and/or use external social media platforms, they shall not reference the Town or any information that would identify the employee's relationship with the Town or Town Department in which they work in their identity (e.g., username, "handle" or screen name), nor shall the employee speak as a representative of the Town. If, however, an employee makes or expresses any comment about Town-business or about the employee's job function or job-related activities because the matter is one of public concern, the employee must disclose his or her relationship with the Town. In doing so, the employee must also state that the comments he/she is making or posting concerning such Town-related business reflects his/her own personal views or opinions and that such comments are neither made on behalf of nor reflect the views of the Town, unless the employee is specifically authorized by the Town to make such comments.

Employees are responsible for acting in a manner that is consistent with the Town's policies. Employees are expected to be courteous, respectful, and thoughtful about how other employees may be affected by postings. Postings that harass or threaten any other Town employees or officials, or which disclose confidential information related to the business of the Town or personal information concerning other Town employees or officials violate Town policy and may result in disciplinary action up to and including termination.

## **Section 7.11 CORI Policy**

### **I. POLICY**

This policy is applicable to the criminal history screening of prospective and current employees, volunteers, interns and licensees. CORI checks will be conducted only after a CORI Acknowledgment has been completed.

### **II. SCOPE**

Criminal Offender Record Information (CORI) checks are part of a general background check for some employment and volunteer opportunities with the Town of Lunenburg as well as certain licenses. The Town may also conduct

CORI checks on existing employees and license holders.<sup>5</sup> Such CORI checks shall be conducted in accordance with the following procedures:

### III. PROCEDURES

- A. CORI checks will only be conducted as authorized by Department of Criminal Justice Information Services (DCJIS). Applicants and/or employees working in certain positions as well as certain license applicants and/or holders will be notified that a CORI check will be conducted. If requested, the applicant, employee and/or licensee will be provided with a copy of the CORI policy.
- B. The Town's employment application does not request conviction information. During the interview process, however, the applicant may be asked about any convictions as allowed by law. CORI checks will only be conducted after a determination of qualification has been made unless otherwise permitted by law.
- C. Prior to questioning an applicant, employee or licensee about his/her criminal record information, the Town will provide the applicant, employee or licensee with a copy of the criminal record in its possession. The Town will also advise the applicant, employee or licensee of the source(s) of the criminal record information.
- D. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on CORI checks will be made consistent with this policy and any applicable law or regulations.
- E. If a criminal record is received from DCJIS (or other source), the Town will compare the record provided by DCJIS with the information on the CORI request form and any other identifying information provided by the applicant, employee or licensee to ensure the record relates to the applicant, employee or licensee.
- F. If the Town reasonably believes the record belongs to the applicant, employee or licensee and is accurate, based on the information as provided in Section E, the determination of suitability for the position or license will be made. While the existence of a criminal record does create a higher level of scrutiny of an applicant, employee or licensee, due weight will be given to: (1) the age/date of the offense; (2) the age of the person when convicted; (3) the nature of the offense; (4) the relevance of the offense to the position or license; (5) the type of offense; (6) the number of offenses; (7) whether there are charges pending; (8) any evidence of rehabilitation; and (9) any other factors the Town deems appropriate.
- G. If the Town is inclined to make an adverse decision based on the results of the CORI check, the applicant, employee or licensee will be notified by the Town in a timely manner. The applicant, employee or licensee will be: (1) provided with a copy of the criminal record in the Town's possession (if not previously provided), a copy of the Town's CORI Policy and the source(s) of the criminal record; (2) advised of the part or parts of the record that make the individual unsuitable for the position or license; and (3) given an opportunity to dispute the accuracy and relevance of the CORI record before making a final decision. The Town, however, may rely upon the information obtained even if the applicant, employee or licensee contests its authenticity.
- H. Applicants, employee or licensees challenging the accuracy of the CORI report shall be provided a copy of DCJIS's *Information Concerning the Process in Correcting a Criminal Record*. If the CORI record provided does not exactly match the identification provided by the applicant, employee or licensee, the Town will make a determination based on a comparison of the CORI record and documents provided by the applicant, employee or licensee. The Town may contact DCJIS and request a detailed search consistent with DCJIS policy.

---

<sup>5</sup> CORI Acknowledgement Forms are effective for one (1) calendar year. If a new CORI check is to be made on an individual within a year of his/her signing of the CORI Acknowledgement Form, the individual will be given seventy-two (72) hours notice that a new CORI check will be conducted. If a new CORI check is to be made after the expiration of a previously signed CORI Acknowledgement Form, a new form will be executed.

- I. The Town will maintain all CORI information for no longer than seven (7) years from either the last date of an individual's employment, the expiration of the applicable license, or the final decision on an application, whichever is longer. After this period, the law requires that employers destroy the CORI information.

#### IV. ADMINSTRATIVE PROCEDURES

The Town Manager may adopt administrative procedures to carry out this Policy.

### **Section 7.12 Parental Leave**

#### INTRODUCTION

In accordance with Massachusetts General Laws Chapter 149 Section 105D, full-time employees<sup>6</sup> of the Town who meet the eligibility requirements as provided below, will be entitled to Parental Leave for the birth, adoption or placement of a child.

#### EMPLOYEE ELIGIBILITY

To be eligible for Parental Leave, employees must have been employed full-time by the Town for at least three (3) consecutive months.

#### LEAVE ENTITLEMENT

An eligible employee will be granted an unpaid leave of absence of up to eight (8) weeks for the birth of a child or placement of a child under the age of 18, (or under the age of 23 if the child is mentally or physically disabled) where the employee adopts or intends to adopt the child.

If two employees who work for the Town apply for such leave for the birth or adoption of the same child, they shall only be entitled to a combined total of eight (8) weeks of parental leave.

#### FAMILY AND MEDICAL LEAVE (FMLA)

An eligible employee may take Parental Leave under this policy, even if he/she is not eligible for FMLA leave or has exhausted her/his entitlement to FMLA leave. If however, an employee is also eligible for FMLA leave, leave taken under this policy will run concurrently with an employee's Family and Medical Leave.

#### USE OF PAID LEAVE

Although Parental Leave is unpaid, an employee may voluntarily elect to use paid leave (vacation, and personal leave, and paid sick leave in instances where the provisions of sick leave apply). Any such use of paid leave will be in accordance with the Town's leave policies.<sup>7</sup>

#### MAINTENANCE OF HEALTH BENEFITS

The Town will maintain group health insurance coverage for an employee while on Parental Leave whenever such insurance was provided before the leave was taken as long as the employee is able to pay his/her required share of the cost on a monthly basis. The employee will be responsible for making

---

<sup>6</sup> For purposes of this policy, an employee who is scheduled to work at least 37.5 hours per week is deemed to be a "full-time" employee unless otherwise defined by an applicable collective bargaining agreement.

<sup>7</sup> In accordance with the Massachusetts Parental Leave Act, employees cannot be required to use accrued paid vacation leave, personal leave, or accrued sick leave with all or part of the employee's parental leave, even if the employer requires employees who take leave for other types of reasons to use such paid leave benefits.

arrangements with the Town to pay his or her share of health insurance premiums while on leave. Continued coverage is subject to timely premium payments. Employees who elect to use paid leave will receive the Town's normal monthly premium contribution while on Parental Leave.

#### **BENEFIT CONTINUATION**

The use of Parental Leave will not affect the employee's rights to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs and other benefits for which the employee was eligible as of the date of the leave or any other advantages or rights of employment incidental to the employment position; provided, however that the period of time of any unpaid Parental Leave, is not included in the computation of further benefit accruals, rights and advantages.

#### **NOTICE REQUIREMENTS**

Employees are required to provide at least two (2) weeks' notice to the employer of the employee's anticipated date of departure and the employee's intended day of return, provided, however, an employee may provide notice "as soon as practicable" if the delay in providing notice is "for reasons beyond the individual's control."

#### **JOB RESTORATION**

Upon return from Parental Leave, the employee will be restored to his or her same position or to an equivalent position with equivalent pay and other employment terms and conditions, unless other employees of equal length of service, status and in similar positions have been laid off due to a legitimate reduction in work force. An employee's use of Parental Leave will not result in the loss of an employment benefit that the employee earned or was entitled to before using Parental Leave.

#### **LEAVE OF ABSENCE BEYOND EIGHT (8) WEEKS**

If an employee on Parental Leave is not subject to FMLA he/she may request additional unpaid leave for parenting by petitioning the Appointing Authority. The employee shall be eligible for the rights under Section I above, unless the Appointing Authority notifies the employee in writing prior to the parental leave and again prior to the extension of that leave, that taking longer than eight (8) weeks of parental leave may result in a denial of reinstatement or loss of other rights and benefits.

#### **PROCEDURES**

The Town Manager may establish procedures to implement and carry out this policy, consistent with the policy.

### **Section 7.13 Domestic Violence Leave**

#### **PURPOSE**

To provide all employees leave for domestic violence, subject to the Domestic Violence Leave Act. This law is intended to reduce domestic violence, and to provide victims and family members of victims of domestic violence protected work leave for qualifying reasons associated with domestic violence.

#### **POLICY**

It is the policy of the Town of Lunenburg (the "Town") to grant Domestic Violence Leave in accordance with M.G.L.c.149 § 52E (the "Domestic Violence Leave Act").

#### **REQUIREMENTS**

As provided for under Massachusetts law, employees are eligible to receive up to fifteen (15) days of Domestic Violence Leave, per year, under the following conditions:

- 1) The employee, or a family member of the employee, is a victim of abusive behavior, as defined below; and
- 2) The employee is using the leave from work to: seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from a court; appear in court or before a grand jury, meet with a district attorney or other law enforcement official; attend child custody proceedings to address other issues directly related to the abusive behavior against the employee or family member of the employee; and
- 3) The employee is not the perpetrator of the abusive behavior against such employee's family member.

#### DEFINITIONS

A. **Abuse** under the Domestic Violence Leave Act and this policy is defined as attempting to cause or causing physical harm; placing another in fear of imminent serious physical harm; causing another to engage involuntarily in sexual relations by force, threat or duress, or engaging or threatening to engage in sexual activity with a dependent child; engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror; depriving another of medical care, housing, food or other necessities of life; or restraining the liberty of another.

B. **Domestic Violence** under the Domestic Violence Leave Act and this policy is defined as abuse by a current or former spouse; a person with whom the victim shares a child; a person cohabitating with or who has cohabitated with the victim, a relative, or a person with whom the employee or family member has or had a dating or engagement relationship.

C. **Abusive Behavior** as defined under the Domestic Violence Leave Act and this policy includes any behavior constituting domestic violence, stalking, sexual assault or kidnapping.

D. **Family Member** for purposes of this Policy is defined as spouse, parent, step-parent, child, step-child, sibling, grandparent and grandchild; persons in a substantive dating or engagement relationship and who reside together, persons having a child in common regardless of whether they have ever married or resided together, and persons in a guardianship relationship.

#### PROCEDURE

- A. Employees will be permitted to take up to 15 (fifteen) days of unpaid leave from work in any 12 (twelve) month period if each of the following conditions is met:
  1. The employee, or a family member of the employee, is a victim of abusive behavior;
  2. The employee is using the leave from work to:
    - 4) Seek or obtain medical attention, counseling, victim services or legal assistance;
    - 5) Secure housing;
    - 6) Obtain a protective order from a court;
    - 7) Appear in court or before a grand jury;
    - 8) Meet with a District attorney or other law enforcement official
    - 9) Attend child custody proceedings; or

- 10) Address other issues directly related to the abusive behavior against the employee or family member of the employee.
3. The employee is not the perpetrator of the abusive behavior against such employee's family member.
- B. Except in cases of imminent danger to the health or safety of an employee, an employee seeking leave from work under this Policy shall provide appropriate advance notice of leave.
  1. If there is a threat of imminent danger to the health or safety of an employee or the employee's family member, the employee shall not be required to provide advance notice of leave; provided, however, that the employee shall notify the Town within three (3) workdays that the leave was taken or is being taken pursuant to this Policy.
    - a. Notification may be communicated to the Town Manager's Office by the employee, a family member of the employee or the employee's counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abusive behavior on the employee or the employee's family member.
  2. In response to a notice of leave under this policy, the Town may request documentation evidencing the need for the leave consistent with this policy. The Town shall not require, however, evidence of an arrest, conviction, or other law enforcement documentation in response to such notice. An employee shall provide such documentation within a reasonable period of time after the request.

An employee satisfies a request for documentation under this Policy by providing any one of the following:

- a. A protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee or employee's family member;
- 11) A document under the letterhead of the court, provider or public agency which the employee attended for the purpose of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member;
- 12) A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior complained of by the employee or the employee's family member;
- 13) Documentation that the perpetrator of the abusive behavior against the employee or family member of the employee has admitted to sufficient facts to support a finding of guilt of abusive behavior; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave under this Policy;
- 14) Medical documentation of treatment as a result of the abusive behavior complained of by the employee or employee's family member;
- 15) A sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior; or
- 16) A sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been the victim of abusive behavior or is the

family member of a victim of abusive behavior. Such sworn statements will be maintained in the employee's record by the Town Manager's Office only for as long as required to make a determination as to whether the employee is eligible for leave.

3. If an unscheduled absence occurs, the Town will not take any negative action against the employee if the employee, within thirty (30) days from the unapproved absence, or within thirty (30) days from the last unapproved absence in the instance of consecutive days of unapproved absences, provides any one of the documents listed in paragraph b.(i)-(vii) above to the Town Manager's Office.
  4. All information regarding Domestic Violence Leave will be kept confidential and not disclosed, except to the extent that the disclosure is allowed under the Domestic Violence Leave Act.
- C. Domestic Violence Leave under this policy shall be unpaid leave. Employees seeking leave under this policy need not exhaust any accrued but unused vacation, personal, and/or sick leave before requesting or taking Domestic Violence Leave under this policy.
- D. While on Domestic Violence Leave, the employee will be responsible for his/her share of the following withholdings (where applicable): medical, dental, life insurance, long- and/or short-term disability and other voluntary withholdings.
- E. If the employee returns to work within the time permitted, a maximum of fifteen (15) days in a twelve (12) month period, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status, and authority.

#### **PROCEDURAL RULES**

The Town Manager's Office may issue procedural rules and guidelines to carry out this policy.

### **Section 7.14 Workplace Violence**

#### **PURPOSE**

The Town is committed to providing an environment that is conducive to personal safety and security during all work related activities.

#### **POLICY**

- Violence of any type is strictly prohibited.
- For purposes of this policy, violence includes any behavior intended to abuse or injure a person in the workplace or damage or destroy property in the workplace.
- Violence is not restricted to physical conduct, but also includes verbal, visual and written conduct. The following examples are incorporated into the policy to assist employees to more fully understand the nature of the behavior prohibited by this policy. Violent behavior for purposes of this policy, however, is not limited to the examples below.
  - Violent physical conduct includes assaults, fights, stalking, destruction or sabotaging of property or equipment and arson.



- Violent verbal conduct includes threats against individuals or property or abusive verbal outbursts, such as threats of bodily harm or verbal tirades intended to offend. Verbal acts of violence against property include threats to destroy or harm property or equipment.
- Violent visual conduct includes making bodily gestures that are threatening or abusive, including obscene or threatening gestures.
- Violent written conduct includes the use of printed or electronic media to threaten property or threaten, abuse or harass people. Written violence includes notes, letters, drawings or computerized mail that threatens, harasses, ridicules or abuses people. Written acts of violence against property include written or computerized threats to sabotage, destroy or render useless equipment or property.
- Weapons of any type are strictly prohibited on all Town property, at all Town events, and are prohibited during any work related travel or business conducted outside of Town property, except by sworn, law enforcement personnel.

For purposes of this policy, weapons include firearms, knives, explosive materials, or any other object that could be used to injure, harass or intimidate an individual. This prohibition applies even if an employee is licensed to carry a legal weapon.

### III. PROCEDURE

**Criminal Complaints of Workplace Violence:** Any individual who experiences or witnesses violence, threats of violence or harassing behavior, or who has reason to suspect that these acts or behaviors are occurring, and may be of a criminal nature, should immediately notify their immediate supervisor who shall report it to the Town Manager and the Police Department. It is not necessary to inform their immediate supervisor first if an employee would prefer to discuss this matter with any of the other individuals listed above.

The Town Manager will investigate any criminal allegation or coordinate with the local law enforcement agency. Alleged behaviors that may not be criminal may still be subject to this policy and subject to appropriate disciplinary action, up to and including termination subject to applicable state statutes and contractual agreements.

**Non-Criminal Allegations of Workplace Violence:** Alleged behaviors that may not be criminal may still be subject to this policy. An employee, official, resident, or visitor may wish to request an informal Town review and action. If this is the case she/he should inform the Town Manager, either orally or in writing. The Town Manager will talk with the person reporting the workplace violence to get details about the events with the primary goal being to provide an opportunity to resolve the concerns through mediation, conflict resolution, and conciliation. Informal procedures at this time include, but are not limited to, separate meetings with the parties involved, joint meetings with the parties involved, meetings of only the parties involved.

**Confidentiality:** Confidentiality is important to encourage discussion. Confidentiality will be maintained insofar as it is legal and ethical. It is not guaranteed. Depending upon the facts of a case it may be necessary for the Town to take action, including consultation with others.

**Retaliation:** To better ensure a safe workplace and to encourage responsible reporting of violence in the workplace, retaliation or harassment against a person making a report in good faith, will not be tolerated and may subject the person engaging in alleged retaliation to discipline by relevant Town policy.

The Town Manager may issue procedural rules to carry out this policy.

## **SEARCHES**

- Lockers, desks, storage drawers, work areas and vehicles although assigned to employees are Town property and are subject to unannounced inspections. The Town may exercise its right to search Town property for weapons and any other items not permitted on Town premises.
- The Town reserves the right to search the possessions of employees and any employee of vendors, contractor, and subcontractors upon entering and leaving Town property, at any time without prior announcement. At such times, all briefcases, purses, portfolios, lunch boxes, tool boxes, and other articles and containers may be subject to inspection. Employees refusing to submit or interfering with such searches may be subject to disciplinary action, up to and including dismissal.

## **QUESTIONS**

If you have any questions regarding this policy, please contact the Town Manager.

### **Section 7.15 Drug Free Workplace**

It is the policy of the Town of Lunenburg to provide a safe and healthy work environment for its employees that is free of illegal drugs and controlled substances. The non-prescriptive use, sale, possession, distribution, dispensing, manufacture or transfer of illegal drugs and/or controlled substances on any Town property is strictly prohibited. Furthermore, the non-prescriptive use, sale, possession, distribution, dispensing, manufacture, or transfer of illegal drugs and/or controlled substances on non-working time that impairs an employee's ability to perform his/her duties or adversely affects the general public or reputation or integrity of the Town is also strictly prohibited.

Misuse of drugs interferes with employees' ability to perform productively at work. In addition, misuse of drugs negatively impacts the Town as a whole and can result in a risk to the personal safety of employees, Town residents, and the general public. Use of illegal drugs and/or controlled substances in the workplace will not be tolerated. Supervisors are directed to bring all such circumstances to the attention of the Town Manager.

At the discretion of the department head in consultation with the Town Manager any Town employee while on duty may be subject to testing for drug or alcohol use where there is reasonable grounds for believing the employee is under the influence of drugs or alcohol. The grounds for reasonable suspicion shall be documented and verified by a second person when possible. Employees who violate this policy may be subject to disciplinary action up to and including termination and may be required to participate in a rehabilitation program as a condition of employment.

Employees convicted of controlled substance violation under state or federal law, or who plead guilty or nolo contendere to such charges must inform the Town Manager immediately upon conviction or plea.

The Town recognizes that drug dependency is a major health problem, and as such, believes in the treatment and rehabilitation of employees with substance abuse problems. The Town encourages employees to seek treatment for their dependencies. To assist with such programs, the Town provides a confidential Employee Assistance Program (EAP) for all employees. Employees can contact the EAP at 1-800-451-1834.

### **Section 7.16 Americans with Disabilities Policy**

In order to promote an environment free of discrimination and harassment for individuals with disabilities and to ensure that the Town complies with all federal and state laws concerning qualified individuals with disabilities, the Town is establishing these uniform guidelines and policies which apply to all employees.

## **MISSION STATEMENT**

The Town is committed to providing reasonable accommodations for qualified individuals with disabilities in accordance with applicable federal and state law unless doing so represents an undue hardship for the Town.

## **DEFINING DISABILITY AND THE TOWN'S OBLIGATION**

### **A. Disability**

According to the ADA, a "disability" means:

- A physical or mental impairment that substantially limits one or more of the major life activities of the individual.
- Having a record of such an impairment
- Being regarded as having such an impairment

### **B. Qualified Individual with a Disability**

A person with a physical or mental impairment that substantially limits one or more major life activities who is able to perform the essential functions of their job with or without a reasonable accommodation is considered a qualified individual.

### **C. Reasonable Accommodation**

The Town will provide reasonable accommodations to qualified individual with disabilities upon request unless doing so would create an undue hardship.

### **D. Undue Hardship**

A requested accommodation may constitute an undue hardship and can be denied where it:

- Requires significant difficulty, expense, and disruption, both financial and administrative.
- Would result in a fundamental alteration of the Town's operations and/or the nature of the job

## **PROCEDURE FOR OBTAINING AN ACCOMMODATION**

If an employee has a disability, is a qualified individual with a disability and believes s/he needs a reasonable accommodation, s/he should initiate the request by contacting either their department head or the Town Manager who acts as the the Town's ADA Coordinator. An interactive process will get underway and all appropriate parties will work together to identify whether a reasonable accommodation is available. Department heads should confer with the the ADA Coordinator/Town Manager before addressing any request for an accommodation. The Town has the right to request medical documentation supporting the employee's request for an accommodation from the employee and/or to send the employee to be examined by a Town-appointed medical professional to determine what, if any, accommodation may be necessary or appropriate.

### **Confidentiality Will Be Maintained to the Fullest Extent Practical**

In accordance with the ADA, the Town will protect and maintain the confidentiality of any medical information received in connection with the reasonable accommodation process. Information will only be shared on a need-to-know basis and documentation will be maintained separately and securely.

## **Section 7.17 Conflict of Interest/Financial Disclosure**

Town employees must comply with the requirements of Chapter 268A of the Massachusetts General Laws that governs conduct as a municipal public official or public employee.

The purpose of the conflict of interest law is to ensure that a public employee's private financial interests and relationships do not conflict with his or her public obligations to act objectively and with integrity. The

law is broadly written to prevent a public employee from becoming involved in a situation which could result in a conflict or give the appearance of a conflict.

Conflict of interest situations include but are not limited to:

- Taking Bribes
- Accepting Gifts (the law allows up to \$50)
- Acting on Own/Family's/Business' Financial Interests
- Obtaining Municipal Contracts and Multiple Jobs – employees are generally prohibited from obtaining municipal contracts or appointments although some exceptions do apply.
- Misuse of an Official Position to obtain unwarranted privileges for themselves or anyone else.
- Accepting outside employment inherently incompatible with a public position.
- Representing Private Parties in Town Matters.

Chapter 268A also requires all municipal officials and employees to complete an online training once every two years and to file their Certificate of Completion with the Town Clerk.

- In any remotely questionable situation, employees are encouraged to get advice and an advisory opinion from the State Ethics Commission at (617) 371-9500.

## **Section 7.18 Standards of Conduct**

The intent of this policy is to communicate the Town's legitimate expectations in the areas of performance and behavior.

### **I. General Conduct and Standards**

Town employees are expected to act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town and the welfare of its residents.

Example of specific applications of this general standards include, but are not limited to: be present at work as required and to be absent from the workplace only with proper authorization; to carry out duties in an efficient and competent manner; to maintain specified standards of performance; to comply with reasonable employer instructions and policies and to work as directed; to respect the privacy of individuals and use confidential information only for the purposes for which it was intended; to neither use, nor allow the use of Town property, resources, or funds for other than authorized purposes; to incur no liability on the part of the Town without proper authorization; to maintain all qualifications necessary for the performance of their duties legally and efficiently; to avoid conduct, whether on or off-duty, that reflects poorly on the Town; to maintain all records in an accurate manner; to report their hours of work accurately; to contribute toward a positive work environment; to be attentive to their duties during work hours and to comply with all Town policies, procedures, directives or other guidance regarding workplace performance or conduct.

### **II. Confidential Information**

Town employees often learn of personal information about residents of the Town and other confidential information. Confidential information of any sort is not to be discussed with anyone, including co-workers, unless necessary in the line of duty. In addition, this type of conversation is not to be discussed in corridors, eating areas or anyplace where such conversation can be overheard.

### **III. Mail Use and Telephone Calls**

Use of town stationary or postage for personal mail is not permitted. Employees should use their home (or some other) address to receive personal mail, including packages.

When answering the phone, speak in a pleasant tone of voice. Always identify yourself and where you are located. If you must refer your caller to another department, explain clearly why you are doing this.

While personal calls are sometimes necessary, employees should limit these to essential situations.

#### IV. Applicability

This policy applies to all paid, appointive Town employees other than those positions under the supervision and control of the School Committee. Employees covered by a collective bargaining agreement are subject only to those provisions in this Policy that are not in conflict with the collective bargaining agreement.

#### V. Policy Violations

Failure to meet the Town's Standards of Conduct as outlined in this Policy shall result in discipline up to and including termination.